

CERTAINE
CONSIDERATIONS

drawne from the Canons of the
last Sinod, and other the Kings Ecclesia-
sticall and statute law, *ad informandum animum Do-
mini Episcopi Wigornensis, seu alterius cuiusvis iudicis
ecclesiastici, ne temere & inconsulto prosiliant ad depriva-
tionem Ministrorum Ecclesie:* for not subscription, for
the not exact vse of the order and forme of the booke
of common prayer, heeretofore provided by the
Parishioners of any parish Church, within
the Diocesse of Worcester, or for the
not precise practise of the rites,
ceremonies, & ornaments
of the Church.

Prov. 25. 2. The glory of God is to conceale a thing secret, but the
Kings honor is to search out a thing.

Esaï 51. 7. Hearken vnto me ye that know righteousness, the people
in whose heart is my Law, feare ye not the reproch of men, nei-
ther be ye afraid of their rebukes.

Cod. de E-
piscopis &
Cleric. l. mul.
li. licere.

*Nec delictoris nomen suspicionemq; formident, cum fides
atque induit via eorum, tam laude, quam honestate, ac pa-
riter pietate non careat, cum Veritatem in publicas aures,
lucemq; deduxerint.*



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*To the Right Honorable Lords, the Lords
of his Maiesties most honorable privie
Counsell.*



MOST Noble Lords, may it please your good Lordships, to be put in remembrance how the holy Ghost calleth and entitleth the Princes of the earth by the name of Gods. By which so rare and admirable a style, so high & supereminent a title, men of your estate, condition & qualitie be taught, that as your names are, so should your persons be, Gods by name & calling, therefore every way such manner of persons, as the most high God, the God of Gods, hath commaunded you to be.

That is to say (as Iob sayeth) Deliverers of the poore and fatherles, when they crie, and there is none to helpe, eyes to the blind, & feete to the lame; diligent in searching out things you know not; breakers of the chawes of the Lyons, and the pluckers of the pray out of their teeth. That so you being covered with Iustice, as with a Robe, and with a crowne, the blessing of them which are ready to perish, might come upon you, and the distressed beeing succoured, might have cause to prayse you. Cap. 19.

And (most Honorable Lords) by so much the more have we presumed to tender vnto your Lordships favorable examinatio, these considerations, by how much the more your fame, prayse and honour may be sounded, and resounded throughout all the Churches, when you shall be well pleased to become humble intercessors vnto our most gracious and Christian Lord and King, for a more temperate, mild, and charitable course, by the Diocesans and other ordinaries, hereafter to be held against the Ministers; untill they shall defend their late censures, penall proceedings and sentences, for omission of rites, ceremonies, or-

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namentes, &c. to be in every due regard and circumstance answerable to the Kings ecclesiasticall Lawes and Statutes.

In the meane season, that more rigour and severitie of law hath of late bene vsed in some of their Consistories, then was meete, these considerations with their reasons drawn from the lawes, statutes, and Canons, which them selves professe and practise (if rightly they were applied to their proceedings) may sufficiently witnes. For by these grounds and reasons, if inquisition or information had ben made, or taken, sentences of grace and absolution, rather then of disgrace and condemnation ought (in our iudgement) to have ensued.

If we should be demanded, what colour of law or reason they can pretend, for their forme and maner of proceedings, we might rather have cause to wonder, then be able to yeeld any reasonable aunswere to such demaund. And therefore as they be old enough, so good leave shal they have from vs, to make aunswere for them selves.

Only thus much we might be able, reasonably to defend, that a good governement being lightsome, can not brooke the darksomnes of that which is evill. And on the other side, that an evill governement, being darksome, can not but flie the lightsomnes of that which is good. If the government then of the Church by Diocesans, & other ordinaries, had bene lightsomnes, and not rather darksomnes, it could not have come so to passe, as it hath done, that the Moone, as it were abashed, and the Sunne, as it were ashamed, should flye before the obscuritie of most grosse darknes: That lampes of pure oyle, and candlestickes of fine golde, standing and burning day & night in the temple, should be removed and put out: and that in steed thereof, both wooden candlestickes, and lights of bulrushes, should be brought in, and set up.

Nay, if we had not seene it with our eyes, & heard it with our eares, it would have seemed a wonder, altogether vncredible vnto vs, that not one (so farre as we can learne) among 2. or 3. thousand Ministers (some wher eof are notoriously knowne, to be ignorant & vnlearned, some idle and non resident, some common bibbers & taverne haunters, some dyers and gamesters, some fighters and quarellers, some wanton & adul-

terous

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terous, some simoniacall and vsurions, some pompous and ambitious, some greedy and covetous, some sweaters and swaggerers, and some prophane and voyd of all honestie of life) should so much as once in twoo yeares, for any of these grosse impieties, bee publickly admonished, or marked with the least note of disgrace. for not conformitie to the holy lawes of God: And yet notwithstanding, that a third or fourth part of thre or foure hundred painfull, discret, learned, grave and godly ministers, within lesse then sixe monethes, should be suspended, deprived, or deposed some from their offices, and some from their benefices; not for commision of the least of the grossest of these sinnes, but only for omission of the least of the commundements and traditions of men. If wee say we had not both heard and seene, and knowne these things, wee could never have beleevd them to be true.

Nay if we had not heard it, and knowne it, how incredible might it be, that sundry learned and godly Ministers, vowing protesting, & offering to testifie upon their corporall othes, that they abstayned from the use of ceremonies, for none other cause, but onely for feare of offending God, wounding their owne weake consciences, & scandalizing their brethren, could not for all this, by the Diocesans be accepted, but commanded away and put to silence.

Now alas (Most noble Lords) if such a course of iustice, and such an hand of iudgement, by your Lordshippes, or other the Kings Iustices & Officers were held in the civil gouernement of the common weale, what out-cries would there be made in all the corners of the land, yea & with what swarmes of disordered and riotous persons, would the Kings Dominions, in short space, be overflowen and pestered?

It is true (my Lordes) we confesse, that non relatione criminum, sed innocentia rei purgantur. And therefore to excuse any Minister wherein he may iustly be blamed, is farre from our minde and purpose. For we graunt that every one must beare his owne burthen, and that every man ought by his owne innocencie, to purge him selfe, bee other mens offences never so great, or seeme his owne, in his owne eyes, never so small.

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But we have therefore balanced the toleration of scandalous and unlearned ministers, with the molestation of learned and godly Ministers, to the end your Lordships understanding the number of sinnes and impieties every where daily abounding, by the multitude of the former, and the scarcitie of godlines in every place to be seene, by the paucitie of the later, your Lordships by your wisdomes might foresee, and by your authorities prevent that pestilent contagion of ignorance of Gods revealed will, which by this preposterous sufferance, of the one, & violent progresse against the other, is ready to infect the whole Church, and by consequence, to lay wast the common weale, as a pray to the popish faction.

For is there not by this means a way prepared and made ready for the greatest part of the people, to revolt from the Gospell to poperie? and so from their naturall and Christian Lord and King to a forein & antichristian Pope? For let the booke of God be once sealed vp from the people in English, as in time of poperie it was sealed vp, vnto our fathers in Latine, and let the people by example of the wicked & scandalous life of Ministers be drawne along in their owne naturall corruption, who will not be ready to assist every lesuite & Seminarie, whē he shal preach poperie, the very mistris and mother of all corruption & rebellion?

The wearing of a whit Surplice, and the feyned making of an ayrie crosse in Baptisme, how litle the popish faction, by the same wilbe quieted and kept in awe, the late outrageous starting out in Wales, and their madd combynings in other places, may be a good caveat for your Lordships to consider: whether their drifies bee not rather to enterprise a more publike disturbance, then to continew them selves within the listes of that obedience wherevnto they were constreyned in the raigne of our late Soveraigne of blessed memorie, Queene Elizabeth.

Your Lordships therefore could not but performe a most acceptable service, first vnto God, and his Church: secondly vnto the King & his Realme, if your Lordships would be pleased to bee petitioners vnto his Maiestie, that by his Regale and Supreame power, there might bee an healing of the former error, and uncharitablenes of the Diocesans and other

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other ordinaries. For it can not be denied but that by their manner of proceedings, they haue sinned against God; in this, that they haue equalled, nay rather in some things preferred their owne Canons & Decrees, before the commaundement of God. And therefore it cannot be but that they haue herein, as much as in them lay, provoked the wrath of God against the King and his whole Realme, if by the Kings zeale, this their so grosse a sinne be not reformed. My Lordes, we are well advised what we speake herein before your Lordships; for we speake nothing but what we proue thus:

Whosoever for not wearing a Surplice, or for not crossing in Baptisme, suspendeth or depriveth a Preaching Minister, otherwise vnreproveable for life and doctrine, and not suspendeth, nor depriveth, but tolerateth an vnpreaching minister, scandalous in life, & ignorant of doctrine, the same person preferreth in this thing, the observation of his owne Canon and Decree: before the commandement of God.

But some Diocefans and ordinaries, for not wearing a surplice, & for not making a crosse in Baptisme, do suspend and deprive preaching Ministers, otherwise vnreprovable for life and doctrine, and yet doe neither suspend, nor deprive, but tolerate vnpreaching ministers, scandalous in life, and ignorant of doctrine.

Therefore some Diocefans and Ordinaries in this thing, preferre the observation of their owne canons and decrees, before the commandement of God.

We could heape argument vpon argument, vnanswerable to this purpose, but we should then passe the boundes of an epistle, and become over tedious vnto your Lordshippes. Only therefore we most humbly beseech your Lordships in the behalfe of the faithfull Ministers of Christ, with patience to heare thus much, viz. that for their dissenting in matter of ceremonie from the Diocefans, they ought na more by the Diocefans

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sans to be traduced for factious sectaries, or seditious scismatickes, then the Dioceans themselves ought to be traduced for such manner persons, by their owne dissenting from the Cardinals and Popes of Rome.

For there being as little difference betweene a sect, and a scisme, as there is betweene a besome & a broome, & there being also as smal oddes betweene faction and sedition, as betweene an edifice and a building, it followeth, the Ministers dissenting from the Dioceans of England, or the same Dioceans dissenting from the Cardinalls and Popes of Rome, if neither of them be seditious scismatickes, that neither of them can be factious sectaries.

When Paule was accused by Tertullus, that he was found a pestilent fellow, and a moover of sedition among all the Iewes thorough all the world; the Apostle answered that they neither found him in the temple disputing with any man, neither making uproare among the people, neither in the Synagogues nor in the Citie. Ari not thou (saith the chief Captaine speaking to Paule) the Egyptian, who before these dayes raysed a sedition, and led out into the wildernes foure thousand men that were murtherers? By which places it appeareth, that a seditious or factious person, by the holy scriptures, is adiudged to be such a kind of person, as who boasting him selfe, rayscith, leadeith, or draweth away much people after him, and vnto whom much people resort and obey: yea and by the civile law, not every one that omitteth some duetie commanded, but such a one as gathereth people together or stirreth the to make a tumult, and shall drawe him selfe and his followers, to some place of safetie to defende him selfe and them against an evident commandment, and publike discipline, only such a man, I say, by the civile lawe is to be punished, as a seditious & factious person. For these kind of me only are properly said, seorsum ire, & partes facere. Seditio then being quasi seorsum ire, and factio quasi partium factio, yea a sect also, being sic dicta, quia fit quasi sectio, vel divisio: and a scisme, being illicita divisio, per inobedientiam, ab unitate Ecclesiae facta, vel illicita discessio eorum, inter quos unitas esse debet: it followeth, that whosoever by inobedience, or tumultuouslie goeth not a part, or maketh

Act. 24.

Act. 21. 38

Act. 5. 36.
37.

Cod. de seditione li. 1.

a Glos. lind.
de heret. c. 2
verb. sectam
b Glos. lind.
de Magis ca.
1. verb. scismatum,

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keth not a part from the unitie of the Church, but either in doing, or suffering, quietly submitte himself to the lawes, that he can neither be factious sectarie, nor seditious scismaticke.

And indeed (my Lords) from hence is it, that the Diocesans and whole Clergie of England (ever since they made a separation from the unitie of the Church of Rome) have falslie bene named, and reputed sectaries & scismatickes, as though they had without cause divided themselves from the unitie of the true church of Christ. Whereas in trueth, the Church of Rome by hir Apostasie, having cut hir selfe from the unitie and universalltie of the doctrine and discipline of the true and mother church of Ierusalem, is hir selfe become the most notable and prime sectarist and scismatick of all the world. And of whose schismes our Diocesans, so farre as they partake with hir, can not be but guiltie. Vules then the Diocesans can approve themselves, touching their use of ceremonies and Diocesan government, to stand in unitie with the true & new Ierusalem, in these dayes repaired & departed from the old schismes and sectes of Rome, we assure our selves that they shall never be able to prove those ministers which stand not in unitie either of iudgement, or practise with them, but be conscionably and so lawfully divided in these things, from them, for such division, to be sectaries or scismatickes? For it must be an unlawfull discesion, by inobedience, from the unitie of the first and mother church of Ierusalem, and not a lawfull departure, upon conscience, from the unitie of the daughter church of England, that maketh a sect or schisme. For otherwise, ought not all other Churches stande in unitie of ceremonies and government with the church of England? or unlawfully dividing themselves from the church of England, must they not become scismatickes & sectaries? And how then are not almost all the christian and reformed churches in the world, not onely almost, but altogether scismatickes and heretickes? For have they not divided themselves from all those rites, ceremonies and ornaments, yea & from that manner of Diocesan government, which are yet reseynd in the

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Church of England?

My Lords, I confesse that brevitie and perspicuitie are two commendable graces of the young and of the penne; & such as in all mens speeches and writings, are much to be affected. But yet how long or tedious soever already I have bene, I most humbly beseech your Honorable Lordshippes, to licence me to passe on one steppe further, especially the matter being of such importance, as the same may not well bee passed over with silence.

It hath pleased Sir Edward Cooke Knight, his Maiesties Attornie Generall, with all candor and charitie, to confirme and satisfie by demonstrative proofes, all such as were not instructed in these points following; First, that an ecclesiasticall Iudge, may punish such Parsons, Vicars &c. as shall deprave, or not observe the booke of common prayer, by admonition, excommunication, sequestration, or deprivation; & other censures and proceffe, in like forme as heretofore hath beene used in like cases by the Quenes Ecclesiasticall lawes, though the act of primo Eliza. had never inflicted any punishment for depraving, or not observing the same.

Secondly, seeing the Authoritie of an Ecclesiasticall Iudge, is to proceed, and to give sentence in ecclesiasticall causes, according to the ecclesiasticall law, that the Iudges of the common law ought to give saith & credit to their sentence, and to allow it to be done according to the ecclesiasticall law, when the Iudge ecclesiasticall hath given sentence in a case ecclesiasticall, upon his proceedings, by force of that law. For (saith he) cuilibet in sua arte perito est credendum.

Now then, as these two pointes bee plainly taught and demonstrated unto vs, so also even by the same demonstrative reasons, it is cleere, that there must be, first, a depraving, or not observing of the booke: secondly, that every sentence given by an Ecclesiasticall Iudge, in a case of depraving, or not observing of that booke, must be given, according to the ecclesi-

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cleasticall law, and upon his proceedings by force of that lawe in like forme, &c.

From whence it followeth, that all sentences touching depravation or not observati^on of the booke, be either voyd sentences by reason of nullitie, or no good sentences by reason of iniquitie and iniustice, if by the Iudges Ecclesiasticall, upon their proceedings; the same sentences have not bene given by force and according to the same lawes, in like forme as heretofore hath bene used in like cases by the Kings Ecclesiasticall Lawes; or if the factes charged upon the Ministers, by the iudges ecclesiasticall, by the letter & intendment of the law, be no depravations, or not observations of the same booke. And therefore to the end all questions touching these two pointes, might hereafter utterly cease, and bee quite buried; your Lordships could not performe a more acceptable service to the King the Church, and Realme, then by an humble importuning his Maiestie, to have it explained by parliament; both who (by the letter and true meaning of the Statute) bee depravers or not observers of the booke; and also what lawes Ecclesiasticall, may, and of right ought to be called, indeed and trueth, the Kings Ecclesiasticall Lawes. For unlesse afeell touching these pointes, as touching the former pointes of Sir Edward Cooks, it be thoroughly decided, what is the binding and assured law, how should the Ministers, or others, content and satisfie themselves with an undoubted trueth?

And that this manner of controversie about the invaliditie of sentences, of deprivation, given by ecclesiasticall Iudges, is not a controversie now first moved, but that the same hath bene long since handled and discussed, is a matter yet remaining (I doubt not) upon publike record. For whereas sentences were given in the tyme of King Edward the sixth, for the depriving of Steven Gardener, from the Bishopricke of Winchester, Bonner from the Bishopricke of London: Heath from the Bishopricke of Worcester: Day from the Bishopricke of Chester: Tunstall from the Bishopricke of Durham: Vessay from the Bishop-

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ricke of Exeter: wherein many grave and learned commissioners were employed: as the Archbishop Cranmer, Ridlie Bishop of London: Goodrick Bishop of Elie: Sir William Peeter, and Sir Thomas Smith, the Kings Secretaries: Sir James Hales, one of the Judges of the Law: Maister Gofnell, Maister Goodrick, Maister Lisley, Maister Stamford, men notably learned in the common lawes of this Realme: Mai. Leveson, and Mai. Oliver, Doctors of the Civill Law, nevertheles the same sentences, were in the tyme of *Queene Mary*, revoked and disannulled without Parliament, within the space (as myne Authour sayth) of three dayes, by vertue of other Commissioners, for faultes found in the processe, viz. that the former Commissioners had proceeded ex officio, without authoritie, contrary to the Kings Ecclesiastical Law: sometimes quod iuris ordo non fuerit servatus, &c. sometimes that the Interrogatories were ministred to divers persons without knowledge of the defendants, &c. sometimes that some of the witnessses were examined privately without oath: sometimes that their exceptions and appellations, were not admitted, but their persons committed to prison, pendente appellatione, &c.

And therefore (most honorable Lords) it is to be considered, if the like, or greater and more notorious defaultes and enormities, bee to bee found in any sentence of deprivation, given ex officio, by a Diocesan governour at this day, whether the same sentence ought to be maintained as good and iust, or rather whether the same ought not (as the Kings law requireth) to bee reversed and disannulled, as evill and erroneous?

And thus I leave and commend unto your most honorable care, circumspection, and vigilancie, the hearkening and spying out, by all the possible wayes and meanes in your highest wisdomes, you can best devise, how the good lawes, statutes & Decrees of the Church & Realme, being duly executed, a learned, vertuous, paynfull, and godly Ministrie may be nursed and suffered to grow up. And how on the other side,

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an Idle, Ignorant, Scandalous, and godles ministerie may (as worthily it deserves) be cut downe, and troden under foote: The one by a perpetuall Decree and ordinance of God, hath establishment from heaven, and therefore without sinne & offence to God can not be neglected: the other springeth from below, and is much like to an evill herbe, or weed, which if it be not speedily rooted vpp, but suffered to spread, will soone so over-spread the gardens of God, with vice and impietie, as there will scarce be any roome left, for vertue and pietie. the one by vse, and execution of the Kings ecclesiasticall lawes, may easilie be cherished: the other without abuse and contempt of the same law, can not in any sort bee tolerated.

It was said vnto Shebna, the Steward of the house of King Hezekiah: What hast thou to doe here? and what hast thou here, that thou shouldest hewe thee out a sepulchre, as he that heweth out his sepulchre, in an high place, or graveth an habitation for him selfe in a rocke?

But, oh, you most noble Lordes, are not as Shebna in the house of Hezekiah, but you are vnto King IAMES, and his house, as was Eliakim vnto Hezekiah, and to the house of King David. As the key of the house of King David was layde vpon the shoulders of Eliakim, so is the Key of the house of King Iames, laid vpon your shoulders. If you shall open, no man shall shut; if you shall shut, no man shall open. Would your Lordshippes then bee fastened as a nayle, in a sure place, as Eliakim was? And would you desire to be the throne of the glorie of your Fathers houses, as Eliakim was to his? You must then bee clothed with the garmentes, and strengthened with the girde of Eliakim: yea and you must be Fathers, to the inhabitantes of Ierusalem, and of the Cittie of God. Yea Shebna, though he were in mans iudgement so fastened, as though he should never fall, yet must his face bee covered, and he him selfe rouled and turned like a bale in a large lande. Yea hee must be driven from his station, destroyed out of his dwelling place,

16. 22. 23.

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and bidden to departe. Nay the burden that was vpon him, must bee cutt off, that the Chariottes of his glorie, may bee the shame of his fathers house.

These thinges, most honorable Lordes, if you accomplish and bring to effect, you shall approoue your selues vnto the great and mighty GOD, to be such litile Gods vnder him, as you may not bee ashamed at his glorious appearance, but may reioyce and be glad, that your worthe and diuine actes, haue beene aunswerable to your diuine and worthe names. And thus the God of power, and Maiestie, confirme, strengthen, and stablisch your heartes faithfully and couragiously to doe the worke of God, and of his King.



The Corrector to the Christian Reader.



His tempest (good Reader) having blowne downe so many poore Parsons houses, vncovered their Churches, and overthrowne their Pulpits, hath wakened mee to behold the harmes and to consider the danger, least staying vnder the roofof a tottering building, I might, perhaps, bee suddenly overwhelmed with the ruines. Herevpon I betoke me to examine the foundations vpon which this house so sore beaten doth stand: I found the groundworkes good and sure, even Christ and his Apostles with all the sacred word of God. The walles I perceyved well strengthened with buttresses of the sayrest and firmeest stone, that the Temple hath bene repayred within these laste times. I grew secure that howsoever the tiles did fly about our eares, yet the walles and the substance would abide: Notwithstanding I looked about me still for more props, no store being superfluous in such extreeme perill, and, by Gods good providence, I light vpon this worthy Treatise, very learnedly written and with great judgement, whereby I receyved comfort and confirmation afresh. In it I beheld how the vehemencie of the storme forced things cleane contrary to the current of our owne lawes; And from hence I conceyved this tempest would be blown over anon. For can his sacred Maiestie, when he shall throughly vnderstand how his statutes are abused, suffer his most loyall subjects to groane any longer vnder such heavy

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heavy oppression? It cannot bee, but together with his high Court of Parliament, he will at laste take order that the ambition of none shalbe of greater force, then his regale decrees. I have thought good to imparte vnto thee this treasure, that thereby thou maist learne what the Lawes of the Lande require in this case, and maist labour by prayer and by what dutifull and lawfull means thou canst to obteyne remedie.

Farewell.

Cerz

Certaine considerations drawne from the

Canons of the last Synod, and other the Kings Ecclesiasticall & statute law, *ad informandum animum Domini Episcopi Wigornensis seu alterius cuiusvis iudicis ecclesiastici, ne temere, & incōsulto profligant ad deprivationem ministrorum ecclesie:* for not subscription, for the not exact vse of the order and forme of the book of common prayer, &c.



First by the letter of the statute 25. H. 8. cap. 19. it seemeth to be a playne case, that no constitutions, canons or decrees, by what name soever they be called, ought to bee made, promulged, or put in execution within this Realme, vnlesse the same be made by the whole clergie of the Realme, assembled by the kings writ in their convocations. For as by these wordes (the Clergie of the Realme) inserted in the submission & petition of the clergie, the whole clergie of the Realme is vnderstood, even so likewise, these wordes, (clergie of the Realme) beeing repeated in the body of the act, can not well be taken and vnderstood, to bee meant of parte of the clergie, but of the whole body of the clergie of the Realme. For otherwise the body of the Act should not accord, and bee answerable to the submission.

The last Synod then, being (as appeareth by the tytle of the booke of canons) but a provincially convocation, for the province of *Canterbury*, consisting only of the Bishop of *London*, president of the same convocation, and the rest of the Bishops and Clergie of the said Province, it followeth (the Archbishop of *Yorke* and the Bishops of that Province, & so the whole Clergie of the Realme not beeing assembled with the Kings writ to this Synod, that the constitutions made in this Synode, have not bene made by the whole clergie of the Realme, according to the true intent and meaning of this statute, and consequently, that they ought not to have bene promulged and executed at all, especially within the province of *Yorke*. But to let this passe, and not simply and altogether to stand vpon this poynt, being also ready, vpon better reasons, to alter our opinion, be it for the tyme admitted and granted, that the canons, and constitutions of the last Synod, according to the true meaning of the statute, were lawfully made and promulged. Nevertheless, for so much as throughout all the Canons, ther is not so much as mention once made of any sentence of deprivation, from an ecclesiasticall benefice; for any crime what soever: fro hence it seemeth evident, that the Synod never intended

By whole Clergie we meane the Archb. B. & other learned of the clergie herefore usually assembled in convocation by the Kings writ.

The articles of religion 1562. were agreed vpon in convocation by the whole clergie of the Realm, vide 13. Eliz. ca. 12. Par in pare non habet imperium, and therefore *Yorke* not subject to *Canterbury*

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tended, that the peyne of deprivation should follow vpon refusall of subscription, or for the not vse of any ornaments, rites or ceremonies, requited and enioyned by those canons.

Besides, for so much as the Synode by the 36. canon, & other canons mentioning the vse of ornaments, rites and ceremonies, hath appointed and ordeyned some certeyne and speciall peynes, yea and peynes farre lesse then deprivation, for the offences aforesaid: herevpon also it forcibly ensueth, that deprivation for those offences, by the Synod, are clerlicke secluded. *Pœna sunt odiosa: odia sunt restringenda; pœne igitur mollienda, potius quam exasperanda.*

And againe, *statutum penale non est extendendum ad casus non expressis, sed strictè debet intelligi sicut tacet in suis terminis.* And therefore it is concluded that *constitutio penalis, licet detur omnimoda similitudo, & subsistat eadem ratio, non tamen recipit extensionem, ad non expressa, quia talis extensio fieri per hominem non habentem potestatem condendi legem.*

The peyne then by the Synod being appointed for not subscription to be no greater peyne, then not to be suffered; to preach, to catechise, or to be a Lecturer, or Reader, &c. It followeth that the Synode adiudged, the peyne of deprivation to be too great a peyne for the offence of refusall, to subscribe, *ex quantitate pœna, cognoscitur quantitas delicti: quia pœna debet esse commensurabilis delicto.* And therefore this offence being adiudged by the peyne to bee but small, the peyne can not be extended to deprivation. *Quia pœna non debet excedere delictum, & beneficium non est auferendum alicui etiam à Papa, sine magna & manifesta causâ.*

Nay were it so that deprivation had bene mentioned in the canon as a meete peyne, to have bene inflicted, for the offence of refusall, yet if vpon any wordes of the canon, a doubt might have rysen, whether deprivation should follow or no, in this case, *cum simus in pœnalibus, verba capi debent, in potiori significatu, vt euitemus pœnam.*

Nay more if by the words of the canon, *vere & propriè sumpta*, it were without all controversie; that deprivation for refusal, might be inflicted; nevertheless this peyne by the opiniõ of *Baldus* for this offence in sum case, is not to be inflicted: *Statuta pœnalia semper intelliguntur (saith he) habere in se clausulam, si delicta dolo committantur.* If it fall the should be made vpon conscience; and consequently, not *per dolum*: The peyne ceaseth, as a peyne by cõmon right, not comprised within the canon; yea & in this case, the peyne ceaseth though the conscience be erroneous, *contra legem conscientie non est obediendum superiori, etiam si Papa: duplex enim*

b ff. de li. & posthu. l. cum quidã. c ff. de pœn. l. interpreta-
tione. de pœ. dist. 1. pœnz. Lynd. de celeb. miss. c. vlt. verb. & amabij. & l. iud. de co-
desu. preb. c. eturientis verb. procu-
rantes. d mag. char. cap. 14. Panor. in c. quærenti de verb. signif. nu. 5.
4. o Panor. in c. multa de preb. nu. 10. c. stat. de elec. lib. 6.
-358-
Panor. c. inquisition. de sent. ex-
com. nu. 3.

Drawne from the Canons.

animæ est lex. quædam priuata seu conscientia, quædam publica: priuata est potentior publica: hinc dicimus quod quæ spiritui Dei aguntur, non sunt sub lege publica. And therefore conscientia quauquam erronea, & scrupulosa sequenda est, si non potest de iure informari, & veniens contra conscientiam suam, etiam scrupulosam, adificat ad Gehennam, id est, committit peccatum mortale, quod punietur pana Gehenna: id est ignis æterni. And another he saith, quod nemo debet grauare conscientiam suam, sed salutem animæ suæ, præferre cuicumque officio. And an other concludeth, propter scandalum vitandum potest de iure omitti obedientia, quod quidem procedit, ut non solum super sedendum sit obedientia superioris, ad scandalum vitandum, cum ipse quod iniquum est præceperit, sed etiam cum aliquid iustum præceperit.

Yea and Maister Doctor Bilson, though not in *Indiciali*, yet in *foro conscientia*, holdeth and teacheth in effect the very same in these words: we (saith he) grant, he that woundeth a weake conscience, sinneth against Christ: wee may not for things indifferent, trouble the weake members of our brethren.

Nay by Thomas Archbishop of Canterbury, Edward Archbishop of Yorke, & all other the Bishops, Prelats and Archdeacons of the Realme, it was concluded and agreed in manner, forme and effect following, viz. One Rule or canon is necessary to be considered, concerning the obedience which is required vnto the rules & canons ordyned by the Priests and Bishops. For as much as that parte of the iurisdiction of Priestes & Bishops which consisteth only in outward ceremonies, and such things as be themselves but meane and indifferent, surely there is no other obedience required in the same, but that men may lawfully omit, or doe otherwise then is prescribed by the said lawes, & commandements of the Priests and Bishops; So that they do it not in contempt or despite of the said power and iurisdiction. But haue some good and reasonable cause so to doe, and offend not, nor slander not their neighbours in their doing. For in these pointes, Christian men must studie to preſerue that libertie wherevnto they bee called and brought by Christes blood and his doctrine. That is to say: Although men ought to repute and thinke that the obseruation of holydayes, fasting dayes and other constitutions, be expedient and necessarie for such endes and intentes as they be made for. And though men ought to repute and thinke that all the said endes and intentes be very good, expedient & necessarie, as well for a common order, &c. yet surely men may not esteeme them but as things indifferent, & of no such necessitie, but that men may vpon causes reasonable,

3.
Panor in
e ad aures,
de ata. &
qual 1.
Panor in c.
per tuas ex
iii. nu 3. &
14. desimo
L. Bald. de
nihil iurand.
l vide.
Simon de
Graph. de
casibus con-
scientia, pa:
359.
6.
Exactig
the oath 1.
Part. 33.

The institu-
tio of a chri-
stian mā de-
dicated to
K.H.3. fol.
57.58.

well omit & leave the same vndone, so that it be not in case of contempt and sclander. This rule and canon men must diligently learne.

Answer,

Yea: but did Ma. *Bilson* speake that in the person of the Magistrate, or in the person of a brother? As for the rule and canon mentioned by the said Archbishops of *Canterburie* and *Torke*, and other Bishops and Prelates, it is to be vnderstood of such ceremonies & ordinances, as the Priests and Bishops prescribe vnto the people, and not of politicke constitutions of the Church, given or confirmed by the Magistrate.

Reply.

Well: but if a Christian Magistrate (norwithstanding the dignitie of his person) be a christian brother, would not my Lord of *W:* (if he were demanded) answer, that a Christian Magistrates sword, is committed vnto him rather for quieting, then for troubling: for healing, then for wounding of the weak consciences of his Christian subiects?

For in that, that Princes and subiects, meeting in the communion of Saints, be therein brethren, how should the person of a Christian Magistrate (though in excellencie he farre surmount the persons of all his subiects,) alter the nature of a Christian trueth, in a Christian communitie? And if it be a trueth in christian communitie, that Christian brethren, ought not to trouble the weak mindes of their Christian brethren, in things indifferent, doeth not a christian Magistrate sinne, if he obey not this trueth? but to let this passe: where you demand, whether M. *Bilson* speake in the person of a Magistrate, or in the person of a brother: I referre it to the iudgment of all men, whether in that place of his booke, his wordes immediatly going before, and following after, doe not as directly touch the Magistrates office, as by any possible meanes they may. For he in that place mainteyning the Magistrats authorite, touching his lawfull requiring of an oth vnto the supremacie, both for coacting and correcting such, as deny the lawfulness of the same: And for this purpose having cited the desperatenes of the *Donatists*, who slew themselves, rather then they would be forced to forgoe their fancies, in the end saith thus: Howbeit we grant that he w^{ch} woundeth a weak conscience, sinneth against Christ. Whervpon also againe follow these words, a litle after; we may not for things indifferent, trouble the weak mindes of our brethren. A Christian Magistrate then, (for of a christian Magistrate he speaketh) sinneth against Christ, if he trouble the weak mindes of his Christian brethren, or wound their weak consciences for things indifferent. And so this reply might suffice also, vnto that exception made touching the rule and canon of the Archbishops and Bishops, before rehearsed, had not them selves in expresse termes, more fully cleared this point. For they make

make no maner difference or distinction, berwene the preceptes and ordinances of Priestes and Bishops, rightfully made by authoritie of their iurisdiction, whether they be confirmed, or not confirmed, by the people, or christian Magistrate: But they affirme directly the same precepts and ordinances being once receyved by the common consent of the people, and authorised by the lawes of Christian Princes, that no other obedience is required to them, but that men may lawfully omitt, or doe otherwise, then as is prescribed by the said Lawes and commandements, of the Priests and Bishops, so that they doe it not in contempt or despite of the said power and iurisdiction.

Fol. 57.

Yea moreover (say they) although men ought to repute & think, that all the said ends and intents, be also very good, expedient & necessary, as well for a common order and tranquillitie, to be had among the people, as also for the better instruction & inducement of the pleople, vnto the observation of these things, wherein consisteth indeed that spirituall iustice, & that spirituall honor and service, which God requireth of vs; yet surely men may not esteeme them, bus as things indifferent; and of no such necessitie, but that men may vpon causes reasonable, well omit and leave the same vndone, so that it be not in case of contempt & slander.

And vnto these cases, (especially at this time, above all times) speciall regard is to be had, even by the Provinciaall or Ecclesiasticall law it selfe; for seeing in every Diocesse, there be not a few of the principall Pastours (alleadging the holy Scriptures, for the ground of their vpright consciences) that refuse not vpon will, but vpon conscience; not vpon contempt or despite of the power of Bishops, but vpon reasonable cause, and without offence or slandering of their neighbours, to subscribe and vse the ceremonies, it is plaine by the same ecclesiasticall law, that they ought to be respected and tolerated: *Propter multitudinem, utique severitati detrahitur: supersedendum ergo correctioni, ubi pacis perturbatio timetur. Item ut scandalum vitetur, istos homines, aliquando simulare oportet, ob suam & aliorum salutem, ut scilicet graviora vitentur. Hoc ergo casu faciet quilibet Prelatus, pro salute hominum, quod iuste potest; nec ultra existimet, se habere, quod faciat, ne ad instar imperiti medici, vno collirio, omnium oculos curare conetur.*

Constit. of
c. ecclesias.
ne dig. tra.
ad fir. &
glossa ibid.
verb. mul.
titudinis.

7.

And vnto this also agreeth, that which is alleadged by Panormitane, in a case of the subtraction of the fruits of an Ecclesiasticall benefice, from a Clarke, who by reason of sicknes and infirmities, is vnable to discharge his cure. *Quilibet clericus: (saith he) dicitur miles Dei, & militat in Ecclesia:* And therefore he concludeth that *Clerici non debent ter-*

8.
Panor. in
1. de cler.
grot.

veri, nec inhumaniter tractari, ne cum alij, exemplo huiusmodi essent deterriti, inueniri forte non posset, qui vellet clericatus inservire, & ecclesia militare: hoc enim videtur turbare statum ecclesiasticum, nedum presentem sed etiam futurum: And further (saith he) *Potest adduci hac ratio multum notabilis in argumentum, quod clericus, non debet privari beneficio suo, sine causa, etiam per Romanum pontificem, nam existente infirmitate, & sic impotentia serviendi, cum non subtrahi debeat beneficium, ne ex hoc turberetur status Ecclesia, ergo multo fortius, ubi nulla subest causa rationalis:* But in the case of refusing to subscribe, or for the not using the rites, ceremonies and ornaments, for conscience, there is no reasonable cause of deprivation, therefore, &c.

Furthermore if the canon had decreed, that a Minister refusing to subscribe, should bee punished by ecclesiasticall censure, in this case the payne of deprivation, ought not to be inflicted, because by this clause (Ecclesiasticall censure) is vnderstood interdiction, suspension and excommunication, which bee *pœna multum favorabiles, & in animarum remedium inducta*; and doeth not comprehend deposition, deprivation, or degradation, *quia illa pœna sunt multum odiosa*.

Lastly, were it so that the Synod had indeed decreed, that a Minister for refusal to subscribe, should be deprived from his ecclesiastical benefice: & were it so likewise, that a Minister should indeed refuse, not vpon conscience, but vpon a selfe will, & *dolo malo* to subscribe, in this case I answer, that the Minister can not lawfully for this offence, by this provinciall canon be deprived: The reason is this: *Beneficia ecclesiastica secundum antiquam ordinationem sunt perpetua, & habent fundationem à iure communi*, which ancient ordinances, being agreeable to the common law of the Realme, & confirmed by the high Court of Parliament, can never be disannulled by the Synode: *Quia non potest inferior disponere, nec contra ius commune, nec contra legem superioris, maxime in preiudicium rerij.*

Considerations for the not exact and precise vse, of the Booke of common prayer, attayned and gotten by the Parishioners of M. for the Minister to vse in the same parish Church.

IT is provided and enacted, that the bookes concerning the said services, shal at the costs & charges of the parishioners of every parish, be attayned and gotten, &c. And that such parishes, where the saide bookes shal be attayned and gotten, &c. shall within three weekes, after the

dist. fa-
perversu,
extra. de
r. agrot.
totum.
ag. chart.
21.
H. 1. c.

Eliza. c. 2
6.

the booke so attayned and gotten, vse the said service, and put the same in vre according to this act: from whence it seemeth to follow, (the Minister not being commanded to attayne & get the said booke) if the parishioners have not hitherto attayned and gotten the said booke, that the minister of the same parish, is not bound to vse the said service, & put the same in vre, which is not attayned & gotten for him, to be vsed & invred.

That the parishioners of the said parish church, have not hitherto attayned & gotten the said booke, seemeth to be manifest vpon these considerations:

The Booke which the Minister of the same Church is bound to vse, should differ from the booke of common prayer, authorised by act of Parliament, 5. and 6. Ed. 6. But in foure poyntes, that is to say: one of alteration, or addition of certeine lessons, to be vsed on every sunday in the yeare, an alteration & correctiō of the forme of the Letany, and two sentences only added, in the delivery of the Sacrament, to the communicants, and none other, or otherwise.

But in the booke attayned and gotten by the said parishioners, there be moe alterations, then are specified in the statute; The forme of the Letany is not corrected and altered, and moreover there is some detraction from the very matter of the booke, which detraction ought not to have bene made, and which is conteyned in this prayer following:

From the Tyrannie of the Bishop of *Rome*, and all his detestable enormities, *Good Lord deliver vs.*

And as touching the forme of the Letanie of K. *Edw.* booke, whereas the same by the letter of the Act, seemeth by the Parliament, to have ben altered & corrected (for the words stand thus, *viz.* altered & corrected, & not to be altered & corrected) yet now so it is, that the same forme remaineth stil in the parish book vnaltered, & vncorrected. For the whole forme, order, and dispositiō of prayers, which is in the Letanie of the parish book is the same forme, order & disposition of prayers which was in the Letany of K. *Ed.* book, Except vnhappely we shall say, that the transposition and alteration of the prayer of *Chrysostrōm* (by the booke of K. *Edw.* according to the nature of the letter of that prayer appointed to be read, last of all the prayers in the Letanie) is an alteration and correction of the forme of the Letanie, when as notwithstanding the transposition and alteration of that prayer by the parish booke, appointed not to bee read last; but before sundrie other prayers, is rather a playne corruption, and not a correction, of that parte of the forme of the Letanie: For this transposition is as if an husband-man, should set his cart before his

Certaine Considerations

his horse; or as an Orator should place his cōclusion before his prohemie.

Again it can not probably or reasonably be gathered, that the Parliament mentioning an alteration & correction made of the forme of the Letany, did intēd by the words (forme of the Letany altered & corrected) that part of the matter of the Letany was or should be altered & corrected. For the matter of that prayer was good, and without fault, & needed no alteration and correction at all, yea and had the Parliamēt detracted or intended, that that prayer should be detracted out of the Letany, and that by the detractiō thereof, the forme of the Letanie had ben altered and corrected, then would no doubt the Parliament have spoken properly and plainly in this case, like as the same did in the other two cases, in this or the like maner, *viz.* one prayer against the tyrannie of the Bishop of Rome, and all his detestable enormities, detracted: In like sorte, I say, as it enacted, one alteration or addition of certeyne lessons to be vsed on every sunday in the yeare, and two sentences only added in the delivery of the Sacraments to the communicants: wherefore the Parliament, in the excellencie of their iudgement & sharpnes of their wisdom, by these wordes (forme altered and corrected) necessarily implying, that the forme of the Letany of King *Edwards* booke, was faulty and corrupt, it can not by any reasonable construction bee gathered, that the Parliament by forme of the Letanie, did intend any part of the matter of the Letanie, which was good and sincere. For if we speake properly, and not tropically, plainly, and not obscurely; iudiciously, and not ridiculously; (as all Statutes and all wise Law-makers speak or ought to speak) we can not say, that any parte of the matter of a thing, is the forme of a thing. For what a vanitie were it to call the matter of a loafe, the forme of a loafe? The matter of an house, the forme of an house? or the matter of a man, the forme of a man? much more vainly then needs must we speake, if we call the matter of a mast of a ship, the forme of a ship; the matter of the clapper of a bell, the forme of a bell; or the matter of the whit of an egge, the forme of an egge. Wherefore it can not otherwise be intended by the Parliament, but that the faulty and corrupt forme, order, and disposition of prayers conteyned in the Letany of King *Edwards* booke, was, or at leastwise, should have bene corrected and altered into an holy & sincere forme, order, and disposition of prayers, and not to have continued still faulty and corrupted, as the same was in the beginning and first originall thereof. Yea and that this indeed was the true meaninge of the Parliament, is more fully confirmed vnto vs out of the doctrine of one of the Homilies, commaunded publicly to bee
read

read in the churches: For comon prayer (saith the *Homilie*) is rehearsed and said by the publicke Minister, in the name of the people & the whole multitude present, whervnto they giving their ready audience, should assent and say Amen. But in the Letany of the booke attayned and gotten by the Parishioners, the forme of prayers is not framed after this maner. For in some part of the Letany the Minister only repeateth some thing, for the which the people praye, and so it commeth to passe, that the people only praye, and not the Minister: yea and so the Minister supplieth the place of the people, and the people the place of the minister. Agayne in some other partes of the Letany, the minister prayeth for one thing, and the people following, pray for another; By meanes whereof, the faultrie and corrupt forme, order and disposition of prayers in the Letany, disagreeable to the doctrine of the *Homilie*, remayneth vnaltered and vncorrected, contrarie to the act of Parliament and doctrine of the church of England.

The second part of the right vse of the Church,

Concerning addition and alteration specified in the act, there be diuers and sundry other alterations, and some additions also, in the parish booke; differing from the booke of King *Edward*, in wel-nigh l. materiall poyntes. And for the vse of which pointes, if the Kings Iudges and Iustices should as strictly and rigorously proceed, as the Bb. have done, and yet doe, for the not vse of the Supplice & Crosse, they might bring all the ministers of the church within danger of sixe monethes imprisonment, and of the losse of one yeares profite, of all their spirituall promotions to the King. For these words of the statute, that all and singular ministers, in any Cathedrall or Parish church, &c. be bound to say and vse the Mattheas, Evensong, celebration of the Lords Supper, and administration of each of the Sacramentes, and all their common and open prayer, in such order and forme as is mentioned in the said booke so authorized by Parliament in the fifth & sixth yeeres of the Raigne of King *Edward* the sixth with one alteration, &c. and none other or otherwise: These wordes (I say) doe as exactly and precisely bind all Ministers to vse the booke of King *Edw.* and none other or otherwise in all poyntes (excepting the excepted) as they binde anie Ministers to vse the rites & ceremonies, mencioned in the said booke: But how can any Minister vse that order of service, and none other or otherwise, which is appointed in the booke of fift and sixt *Edw.* 6. (excepting the excepted) when as some other order of service (excepting the excepted) is concluded within the booke, provided by the Parish-

oners: And for the vse of which booke, rather then for refusall of the vs: of which booke, a minister is punishable by the statute. And to make the thing which we have in hand to be vndeniable, & without cavil: namely, that the booke provided by the Parishioners, is not that booke, which is authorised by act of Parliament: it is to be noted (besides the alterations and additions specified in the statute) that there is one great and mayne alteration, betweene the two bookes, of sundrie chapters, appointed to be read for the first lessons, at Mattens, & Evening-song, vpon divers festivall dayes. Which alteration also, it is evident, that the same was made generally, and for the most part from the better, to the worse, namely from the canonick scriptures, to the Apocriphall writings: from whole chapters, to peeces of chapters, and that as it seemeth, not without fraud and collusion to the Queene & Realm. The prooffe of which alteration is apparantly scene by the severall kalenders, of both bookes. Vnto which kalenders, for the first & second lessons, (except the same be proper lessons) at morning and evening prayer the minister is referred. For in a Rubrick before *Te Deum*, at morning prayer, it is said: There shalbe read two lessons distinctly with a loude voyce; the first of the old testament, the second of the new, like as they be appointed by the kalender, except there be proper lessons assigned for that day. And in the order for evening prayer it is thus said: Then a lesson of the old Testament as is appointed likewise in the kalender, except there be proper lessons appointed for that day. And after *Magnificat*: then a lesson of the new Testament; Now these first and second lessons, whether they be proper or not proper lessons, assigned by the parish booke, that many of them doe vary from the first and second lessons, appointed by the booke of 5. and 6. Edw. 6. is plainly to be scene, not only by the kalenders of both bookes, but also by the order appointed for proper lessons: A paterne whereof at certeyne feast dayes followeth:

	<i>Kalender of King Edwards originally printed booke.</i>	<i>Kalender of the Parishes printed booke.</i>
Stevens day	1 Morning prayer. 1 lesson. Esa. 56 Evening prayer. 1 lesson. Esa. 57	Morning prayer. 1 lesson. Pro. 28 Evening prayer. 1 lesson. Eccle. 4.
Saint Iohn.	2 Morning prayer. 1 lesson. Esa. 58 Evening prayer. 1 lesson. Esa. 59	Morning prayer. 1 lesson. Eccle. 5. Evening prayer. 1 lesson. Eccle. 6.
Innocents,	3 Evening prayer. 1 lesson. Esa. 60	Evening prayer. 1 lesson. Wisd. 11

Vpon

Vpon the circumcision day both bookes agree saving that King *Edwa.* readeth the whole 10. chapter of Deuter. at evening prayer, and the Parish booke but part: vpon the Epiphanie, the chapters at morning and evening prayer, for first and second lesson by both bookes are the same. But the Genealogie of our Savior Christ mencioned in the third of Luke, by the Kings booke is appointed to be read, whereas by the Kalender and one rubricke in the parish booke, the same is appointed not to be read.

King Edw. Kalender.

The parish bookes Kalender.

6 Morning prayer. 1 lesson Ge. 46
 Evening prayer. 1 lesson Gen. 47
 7 Morning prayer. 1 lesson Ex. 12
 Evening prayer. 1 lesson Exo. 13
 8 Morn. prayer. 1 lesson Num. 33
 Even. prayer. 1 lesson Num. 34
 9 Morning prayer. 1 lesson Jos. 21
 Evening prayer. 1 lesson Jos. 22

Morning prayer. 1 lesson Wisd. 5
 Evening prayer. 1 lesson Wisd. 6
 Morning prayer. 1 lesson Wisd. 9
 Evening prayer. 1 lesson Wisd. 12
 Morning prayer. 1 lesson Wis. 19
 Evening prayer. 1 lesson Ecclus. 1
 Morning prayer. 1 lesson Ecclus. 2
 Evening prayer. 1 lesson Ecclus. 3

Convert. of
 Paule.
 Purification
 of Mary.
 Mathias.
 Annunciat.
 of Mary.

10 Vpon Monday and Tewsdai in Easter weeke, vpon the ascen-
 11 sion day and Whitsunday King *Edwa.* booke appointeth, no
 12 proper Chapters, for the first Lessons, but only proper chapters
 13 for the second lessons: and so referreth the Minister for the
 first lessons on those dayes, to the chapters which by the com-
 mon Kalender are appointed to bee read vpon those dayes.

Whereas the parish Booke appointed proper chapters aswell for
 the first as second lessons vpon all those dayes.

14 Vpon Monday and Tewsdai in Whitsunday weeke by the K.
 15 book, there be no proper chap. appointed for the first or secod
 16 lesson at morning or evening prayer: whereas the parish book
 17 appointed vpon Monday part of Gene. 11. at morning prayer
 18 for the first lesson; and for the second lesson 1 Corint. 12. And
 for the first lesson at evening prayer, of the same day, parte of
 the 11. of Numbers. Vpon Tewsdai in the same weeke, for
 the 1. lesson at morning prayer part of the 19. 1. kings, and
 for the first lesson at evening prayer Deut. 30.

King Edwa. Kalender.

Marke.	19	Morn.prayer.1 lesson 2.K.3
		Evening prayer.1 lesson 2.K.4
Philip and Jacob.	20	Morn.prayer. 1 lesson 2. K.15
		Evening prayer.1 lesson 2.K.16
Barnabe.	21	Morn.prayer.1 lesson Hest.3
		Evening prayer.1 lesson Hest.4

The parish bookes Kalender.

	Morn. prayer.1 lesson Ecclus. 4
	Evening prayer. 1 lesson Ecclus. 5
	Morn. prayer. 1 lesson ecclus. 7
	Evening prayer. 1 lesson ecclus. 9
	Morn. prayer. 1 lesson ecclus.10
	Evening prayer. 1 lesson ecclus. 12

King Edw. Kalender

Peter.	22	Morn.prayer.1 lesson Iob. 31
		Evening prayer.1 lesson Job. 32
James.	23	Morn.prayer.1 lesson eccl. 10
		Evening prayer.1 lesson eccle.11
Bartholomew.	24	Morn.prayer. 1 lesson ezek. 3
		Evening prayer.1 lesson ezek. 6
Matthew.	25	Morn.prayer. 1 lesson micha.7
		Evening prayer.1 lesson Nahu.1
Michael.	26	Morn prayer. 1 lesson Zecha.7
		Evening prayer.1 lesson Zecha.8
Luke.	27	Morn.prayer.1 lesson Iud. 13
		Evening prayer.1 lesson Iud. 14
Simon and Iude.	28	Morn.prayer.1 lesson Sapi. 17
		Evening prayer. 1 lesson Sapi. 18
All Saints.		Morni. prayer. 1 lesson Wisd.3
		Evening prayer.1 lesson Wisd.5
Andrew.		Morni. prayer. 1 lesson Esai. 5
		Evening prayer. 1 lesson Esai. 6
Thomas.	30	Morn. prayer.1 lesson Esa.48
		Evening prayer. 1 lesson Esa.49

The parish bookes Kalender.

	Morning prayer.1 lesson ecclu.13
	Evening prayer. 1 lesson ecclu.19
	Morning prayer.1 lesson ecclu.21
	Evening prayer. 1 lesson ecclu.23
	Morn. prayer. 1 lesson ecclu.25
	Evening prayer. 1 lesson ecclu.29
	Morning prayer.1 lesson ecclu.35
	Evening prayer. 1 lesson ecclu.38
	Morning prayer.1 lesson ecclu.39
	Evening prayer.1 lesson ecclu.44
	Morning prayer.1 lesson ecclu.51
	Evening prayer. 1 lesson Iob. 1
	Morn.prayer. 1 lesson Iob.24.25
	Evening prayer. 1 lesson Job. 42
	Morn.pray.1 lesson part of Wisf.3
	Even.pray. 1 lesson part of Wisf.5
	Morning prayer.1 lesson Pro.20
	Evening prayer.1 lesson Pro.21
	Morning prayer.1 lesson Pro.23
	Evening prayer. 1 lesson Pro.24

Vnto these alterations there is one maine difference to be added and fit in this place to be observed, concerning certaine dayes, wherein proper lessons are to bee read. For by the booke of King Edw. it is said proper Psalmes & lessons for diuers feasts and dayes, but by the parish booke, the title is after an other manner, viz. Lessons proper for holy dayes. From whence it followeth that all those dayes wherein proper lessons are to be read, are by that title accompted to be holy dayes: which is repugnant

repugnant to a Rubricke of the same booke, entituled: *These to bee observed for holy dayes, and none other.* Out of which Rubrick (amongst a number of holy dayes there specified) six dayes be secluded from being holy dayes; for the which six dayes notwithstanding, proper lessons are appointed to be read, as vpon holy dayes: and these six dayes be the dayes following: viz. the day of the cōversion of Paule, Barnabes day, Wensday and Thursday before Easter, Goodfriday, and Easter even.

It seemeth therefore not to be so safe a matter, as men are borne in hand it is, for ministers absolutely to subscribe, that there is nothing in the whole booke of common prayer, repugnant to the holy worde of God, seeing there is so grosse and palpable a repugnancie in the booke it selfe. *Consentiet nulli, qui secum dissidet ipse.* Vnto which repugnancie also may be added an other repugnancy more absurd. For besides the alterations and additions before specified, and not comprised in the statute, there is a Rubrick added, which not only repugneth the booke of K. Edward, but also crosseth the kalender, aswell of the parish booke it selfe, as of the booke of K. Edward. By which Rubrick also there is a detraction from the booke of K. Edward, worse then the former of the Letany. Because this Rubrick appointeth onely part of the first chapter of Saint Matthew, and part of the third chapter of Saint Luke to be read, whensoever by the kalender or booke, those chapters come to be read. Whereas the kalender of both bookes appointeth the whole first chapter of Saint Matthew, & the whole third chapter of Saint Luke to be read vpon diuers dayes in the yeare. As for example, both bookes on the first Sunday after the nativitie, appoint the whole first chapter of Saint Matthew to be read for the Gospell. Which whole chapter also is appointed by the kalenders of both bookes, to be read for the second lesson of morning prayer on the second day of Ianuary, the third of May, and the 31. of August. The like is to be observed by the kalenders, for the reading of the whole third chapter of Saint Luke, for the second lesson at morning prayer, vpon the 21. of February, the 19. of Iune, and the 17. of October.

But these chapters are no part of the Booke of cōmon prayer, and by the Preface before the second part of the *Homilies*, a Minister may for some chapters of the old Testament, read some chapters of the New, as to him shall seeme to tend more to edification.

Objection.

By

Answer.

By your leave, this your exception seemeth to be but an homelie, & frivolous exception: For though the chapters bee no part of the booke of common prayer, yet be the chapters part of the matter of the common service of the church prescribed by the booke: yea and the formall and orderly reading of such and such chapters, at such & such times, is part also of the order and forme of saying the same service. Inſomuch as neither Mattens nor Evenſong, in matter & forme can be ſong or ſaid, without the chapters be read. And as for the preface to the *Homilies*, that by the ſame the miniſter is at libertie to leaue ſome chapters of the old, for ſome chapters of the new Teſtament, for firſt or ſecond leſſon, what doeth that helpe the falſification of the pariſh booke, when the ſame, in place of ſix and twentie, or thereabouts, of Canonical, hath appointed ſo many of Apocriphall chapters, vpon feaſt dayes to bee read? Or how can the Preface exempt a Miniſter from being puniſhable before the Kings Juſtices, if he ſhall follow ſome private preface, and breake the Kings publike edict?

Obiection.

But both bookes agree in many pointes, and namely that the Miniſter in Baptiſme ſhall make a croſſe vpon the childes forehead, & ſhall ſay: We ſigne thee with the ſigne of the croſſe, &c. And therefore how ſoeuer the bookes may differ in ſome moe pointes then are mentioned in the Statute, yet cleane to diſavow the book of common prayer provided by the Pariſhioners, not to bee the booke of common prayer, which the Miniſters in their dayly miniſtratiō are bound to uſe, is but a cavill, and reprovet h the whole ſtate of Prelacie and of the Realme, who have received and uſed the ſame booke, ever ſince the firſt yeare of our late Queenes Raigne.

Answer.

King Henrie the eight, writing to the Emperour againſt the Pope, telleth him, that a free man ignorant of his freedome, doth not therefore become a bondman, becauſe ignorantly he ſubmitteth him ſelfe to ſervitude; No more (ſay we) is the State of the Realme, lyable to re-prooſe, when having committed the ordering of theſe affayres to the fidelitie and circumspection of the Clergie, it hath bene abuſed by the Clergie. Howſoeuer the State then of the Realme have received and uſed the booke, attayned and gotten by the Pariſhioners, it mattereth not to the point in queſtion. For if the Clergie vnwitting to the State, have cauſed or ſuffered a booke to bee printed and publiſhed, which hath but the ſhew of a booke, then (as it ſeemeth) hath the Clergie no law, but the ſhewe of a law to enforce the uſe of ſuch a booke, as the

State

State hath not authorized. And therefore we may not for clearing the Clergies iust reproofe, confesse an vntueth, and still conceale a kinde of iniustice (vnwitting to the State) executed by the Cleargie, vnder a colour of Iustice, as if their iniustice by colour of errour, were maintainable by the State: For so contrarie to all reason and good duetie, (which we owe to the state and to the Church) we should not only interlace the innocencie of the State, with the guiltines of the Cleargie, but also mingle the churches industrie, with the Clergies ill husbandrie. It is therefore no cavill, to oppose a iust and true answer, to an vntue and vnsound plea:

For albeit the two booke agree in many pointes, and specially in mencioning the making of a crosse, &c. nevertheles the parish booke, can not therefore any more truely be counted, that booke which is authorized by act of Parliament, then can that coyne bee reckoned to be the Kings coyne, which hath in it, nine partes silver, and the tenth part copper, neither is it any more lawfull for an ordinary, to presse the vse of a booke, in it selfe corrupted, though in many points it agree with the originall; then it is sufferable for the Kings Iustices, to enforce the vse of a coyne in it selfe counterfeite, though in forme and character, it be like the Kings Image and superscription. Wherefore the mencion made in the parish booke of making of a crosse, &c. not being a matter of power sufficient to warrant the parish booke; but the booke authorized by act of Parliament, being a matter of power to warrant the making of a crosse, &c. wee may iustly avow the booke of common prayer, attayned and gotten by the parishioners, not to bee that booke, which the Ministers in their daylie ministracion of divine service, be bound to vse, notwithstanding the making of a crosse and signing the child in the fore head with a crosse, be therein mencioned: If reply bee made that this plea would but litle ease or advantage the Ministers in case the right booke should be reviewed, corrected and new printed, we then reioyne and averre. First, that the day is past long since, before which time this worke should have bene refined, and that therefore it is now too late, without a new law, to reviewe and amend the same.

Secondly, that this plea will not only, but litle ease and advantage the nullities, iniquities and iniustices of sentences heretofore passed, by the ordinaries, vnder colour of that booke, but also much advantage the King and his state, if his Maiestie might bee pleased to do as King

Joseph,

Iosaph, king of *Iudah*, or as *K. Henry* the eighth, king of *England* did: king *Iosaph*, in, or about the beginning of his raigne (as it seemeth) having appointed the Priestes to take all the silver of dedicate thinges brought to the house of the Lord, and therewith to repaire the broken places of the house, wheresoever any decay was found, and the Priests vntill the three and twentieth yeare of his Raigne, not having mended, that which was decayed, nor repayed the ruines of the Temple, the king (I say) because of the Priests negligence, commanded the Priests to receive no more money, and tooke from them the ordering of the money, and committed the same to his Secretary, and to *Iehoiada* the high Priest, who gaue the money made ready, into the hands of them that vndertooke the worke, and that had the oversight of the house of the Lorde, of whom there was no reckoning taken, because they dealt faithfully.

If the Priestes then of our age, have not only not within three and twentie, but not within three and fortie yeares published that booke, which is mended and corrected by the Queene & her state, in the first yeare of her Raigne; but also for the space of eight and fortie yeares, have suffered a corrupted booke, to be intruded into the place of a true booke, we commend it to the wisdom of our Soveraigne Lord king *JAMES*, (who is as an Angell of God to discern betweene things that differ) (there being no high Priest in our dayes like faithfull as was *Iehoiada* the high Priest in the dayes of king *Iosaph*) whether his Maiestie might not be pleased for the redresse of this and other corruptions in the Ecclesiasticall state, to appoint as king *Henry* the eighth did, another *Cromwell*, to be his Maiesties Vicegerent and Vicare generall over the Clergie.

Vnto these differences and alterations betweene the two bookes, not mentioned in the statute may be annexed, both an addition of certaine new prayers, and some alteration also of the forme of the old prayers to be said after the end of the Letanie. By addition in the parish booke, there be set three severall prayers, not any one of them mentioned in the Kings booke, viz. A prayer for our Bishops & Curates, beginning thus: *Almightie and everlasting God, which only workest great marvelles, send downe vpon our Bishops and Curats, &c.* Secondly, a prayer out of the 2. of Corint. 13. 13. viz. *The grace of our Lord Iesus Christ, &c.* And thirdly, a prayer beginning thus: *O God whose nature and propertie is ever to have mercie, &c.*

And

And whereas by the forme of King Edwards booke, the Letanie should ever end with this collect following: *Our Almighty God, which hast given us grace at this time with one accord, &c.* and so this collect should be after the prayers for rayne, for faire weather, in the time of dearth, in the time of warre, and in the time of any common plague, or sicknes, as the time requireth. This collect (I say) by King Edw. booke appointed to be said after all these prayers, is by the parish booke set before all these. Yea and it is to be said also, before the prayer beginning: *O God whose nature & properties is ever to have mercy.* By meanes wherof the very forme and order of some prayers, appointed in the Kings booke, and by the statute commaunded to be vsed, and none other, or otherwise is so transposed, and inverted, as that the minister observing the parish booke, can not but breake the order and forme of common prayer, commaunded to be vsed, and so can not but cast his body, & one whole yeares fruites of his benefice, vpon the kings Iudges, and Iustices mercy.

Moreover, besides these additions and alterations, in the end of the Letany of King Edw. booke, there is one prayer inserted, which by the parish booke is wholly left out, namely: *O God mercifull Father, which in the time of Helisens, &c.*

Lastly, at the latter end of the communion, in the kings book there is one Rubrick concerning kneeling at the communion, which Rubrick is not in the parish booke, & the same beginneth thus: *Although no order, &c.* There is also one Rubrick among those Rubricks which are in the parish booke not to be found in the Kings booke, beginning thus: *And in Cathedrall or Collegiat Churches, &c.*

Wherefore the parish booke, in so many and materiall poyntes, being thus grossly corrupted, and no one true original copie provided by the parishioners for the ministers to vse, it seemeth to be a very lamentable and wofull case; that subscription to a feyned record should bee thus streightly vtged: And thus so many learned, peynfull and godly Ministers for refusing to subscribe, or precisely to doe an vnauthenticall scedule, should be grieved and molested.

By what guyle, or by whole cunning to foule a stratagemme, to the deluding of the Queene, the Lords, and commons in Parliament assembled, was first wrought, we know not. Neither have we any reason to charge any of the Clergie now living, with so foule and grosse an abuse. Because there is not one of the Clergie, to our knowledge, li-

ving, that in the beginning of our late *Queenes* raigne, had ought to medle in Church-governemēt, or survey of printing bookes. But this we may speake, and not speake (as we thinke) vntruly that some one guilfull priest, or other, vnwitting to the *Queene* and State, yea and it may be vnwitting to the *Cleargie* too, was suffered to shoulfe, and to set the cardes with the sleight of a false finger. For otherwise, it could not possibly have come to passe, that so many chapters of the *Apocryphall* writings, should be conveyed into the parish booke, in steed of so many chapters of the true and authentickall scriptures, appointed by *K. Edw.* booke; especially the same chapters, in the parish booke, (as it were of set purpose) being ordered to be read, when all the people are solemnly assembled, together vpon festiual dayes.

Wherefore these differences betweene these bookes being apparantlie true, and the statute having decreed, that the minister shalbe bound to say, and vse the *Mattens*, *Evensong*, &c. in such order and forme, as is mencióned in the same booke of *King Edward*, with such alterations and additions, as be mentioned in the act, & none other, or otherwise, and the parishioners not having atteyned and gotten the saide booke, it is a matter that worthily and necessarily requireth the consideration and resolution of the *Kings* learned Iudges and Iustices:

Whether a Minister by the letter of the statute be bound exactly and precisely to vse a booke atteyned and gotten by the parishioners, the same booke not being authorised by the letter of the statute? And if not, then whether the Minister by the letter of the statute, bee to loose and forfeite to the *King* one yeares profit of all his spirituall benefices and promotions, and his body to suffer imprisonment by the space of six monethes, if he shall refuse to vse some part of a booke not authorised. For it seemeth (as yet) to vs absurd, that a Minister should bee vrged to vse such a booke, as for the vse whereof, hee hath no authority, or that he should be punished for refusing the vse of such a booke, as for the vse whereof, hee is by the law punishable.

But be it granted, that the very booke authorised, and none other is atteyned and gotten by the parishioners for the Minister to vse; then is it againe a matter carefully to be weighed, and for the full contentation of the mindes of all persons to be resolved, by the Iudges, what manner of fact is to be holden and adiudged by the Letter of the Statute, to be a breach of the statute, and for the which fact, a Minister, before the Kings Iustices, is punishable in manner and forme expessed in the Act.

For the better resolution of which question, it shall not be amisse to repeate in this place the first clause of the body of this Statute. For in the clause of the repeale of the statute of Queene Mary, and reviving the booke of king Edw. it is said; that the said booke shall stande and be in full force and effect, according to the tenor and effect of this Statute. the tenor and effect of this statute then, is to bee noted, the wordes whereof are these:

And further be it enacted by the Queenes Highnes, with the assent of the Lords and Commons in this present Parliament assembled, and by authoritie of the same, that all and singular Ministers in any Cathedral or Parish church, &c. shall from, and after, &c. be bound to say and vse the Mattens, Even-song, Celebration of the Lords supper, and administration of each of the Sacramentes, and all their common and open prayer, in such order and forme, as is mentioned in the said booke so authorised by Parliament, in the said fifth & sixth yeares of the reign of King Edward the sixth, with one alteration or addition of certayne lessons to be used on every Sunday in the yeare, and the forme of the Lesson altered and corrected, and two sentences only added, in the deliverie of the Sacrament to the communicantes, and none other or otherwise:

Out of which clause one special poynt for the better vnderstanding of the whole tenor and effect of the statute is to be observed: Namely, that the Parliament hath wholly in this branch omitted, and not once mencioned the vse of any rites, or ceremonies, in saying and vsing the Mattens, Even-song, celebration of the Lords Supper, and administration of each of the Sacramentes. So that vntlesse such rites and ceremonies, as be mentioned in the book of K. Edw. the sixth, be respecti-vely part of the order & forme of saying & vsing Mattens, Even-song, celebration of the Lords Supper, and administration of each of the Sacramentes, &c. it can not bee denied, but that rites and ceremonies mencioned in that book, are excluded out, and not comprised within

Note that the Lordes only, & not Lordes spirituall and temporall, are mencioned: spirituall Lordes therefore were not of this Parliament. For by diuers statutes when only Lordes are mencioned, temporall Lordes are included, and spirituall Lordes excluded.

this branch; and therefore not commanded by this branch to be vsed.

The 2. branch of the body of this statute followeth in these words:

And that if any maner Parson, Vicare, or other what soeuer minister, that ought or should sing or say common prayer mencioned in the said booke, or minister the Sacramentes, &c. refuse to vse the said common prayers, or to minister the Sacramentes, &c. as hee should vse to Minister the same, in such order and forme, as they be mencioned and set forth in the said booke, or shall wilfully standing in the same, vse any other rite, ceremonie, order, forme or maner of celebrating of the Lordes Supper, openly or privily, or Mattens, Evensong, administration of the Sacramentes, or other open prayers, then is mencioned and set forth in the said booke, &c. or shall preach, declare, or speake any thing in the derogation or depraving of the said booke, &c. & shalbe therof lawfully convicted, according to the lawes of this Realme, &c. shall loose and forfeite to the Queenes Highnes, &c. for his first offence, the profite of all his spirituall benefices and promotions, comming and arising in one whole yeare next after his conviction. And also, that the Parson so convicted, shall for the same offence suffer imprisonment for the space of sixe monethes, without bayle or mainprise.

Now by the letter of this branch, it can not be denied, but that foure severall kindes of offences mencioned in the same, by what soever minister, they shalbe committed, are every of them punishable alike, by one and the self same maner of payne, notwithstanding the offences seeme to be of divers natures. One consisting in the refusall of the vse of common prayer; an other in the refusall of the administration of the Sacramentes, in such order and forme, as they be mencioned and set forth in the said booke. A third vpon a wilfull and obstinate standing in the same, in vsing some other rite or ceremonie, then is mencioned and set forth in the said booke. And a fourth in speaking against, or depraving the booke, or any part thereof.

As for the which speaking against, or depraving the booke, the letter of the Statute seemeth to bee so playne, as that no maner scruple can be moved, what the minde & intendement of the Parliament was, about the speakers against, or depravers thereof.

But touching the offence of a Ministers refusing to vse the said common prayers, and of his refusing to minister the Sacramentes in such order and forme as they be mencioned, & set forth in the said booke, and wilfully & obstinately standing in the same, of his vsing any other

rite

rite or ceremonie, then is mencioned, &c. these *Queres* following, seallie and properly arise from the letter of the foresaide two former branches.

For seeing there is no mention at all made of rites and ceremonies, in the former branch, and seeing also there is no punishment by the second branch, mencioned to be inflicted vpon a Minister for the refusall of the vse of rites and ceremonies, but onely vpon a wilfull and obstinate standing in the same, for the vse of other rites and ceremonies, then are mencioned and set foorth in the saide booke, it seemeth doubtfull and questionable.

First Quare.

Whether a Minister conscionably refusing to vse some of the rites and ceremonies mencioned and set forth in the saide booke, be punishable before the Kings Iustices, in maner and forme before expressed, vnles wilfully & obstinately standing in the same, hee shall vse any other rite or ceremonie, then is mencioned, &c.

Second Quare.

If a Minister that is bound to minister the Sacrament of Baptisme, doe not refuse to minister the same Sacrament, in such order and forme as is mencioned & set forth in the said booke, but shall in very deed and trueth minister the same Sacrament in such order and forme, as is mencioned and set foorth in the said booke, whether the same Minister bee punishable before the Kings Iustices in maner and forme before expressed, for not making a crosse, or not signing the childe in the forehead with a crosse, after the sacrament of Baptisme is fully and perfectly ministred? For so this sacrament bee ministred in such order and forme, and with such rites and ceremonies preceeding baptisme, as be mencioned in the said booke, and none other rite or ceremony, with wilful obstinacie be vsed in the ministrat[i]on of Baptisme, it seemeth cleere by the letter and sense of the Statute, that the Minister is not punishable, before the Kings Iustices, by the payne of imprisonment, &c. for omission of the crosse after baptisme.

For

For this fact (of not crossing after baptisme) not being within the letter of the Statute, it is absurd to say that the same fact should be punishable by the law, when as the same fact is not within but without the compasse, scope and letter of the law.

That this omission of crossing, is an omission after the ministration of Baptisme, and not an omission of the order & forme mentioned to bee in the ministration of Baptisme, is made cleere vnto vs, by the decree of all the Lordes spirituall, and Clergie, by the Kings confirmation, vnder the great seale of England, & by the opinion of some great Lawyers & Iudges, published in open seates of Iustice. For this hath ben decreed, confirmed and published that the making of a crosse, and signing the childe in the forehead with a crosse, is no parte of the sacrament of Baptisme; and that baptisme is fully and perfectly ministred, without these rites and ceremonies.

This case then of the omission of the crosse after baptisme, being most cleere by such a cloud of witnesses, that the same is not an omission of that order and forme appointed to be in the ministration of Baptisme, it seemeth to be a thing most cleere, that a minister by the letter of the Statute, is no more punishable before the Kings Iustices, for omission of the Crosse after Baptisme, then is any person by the letter of the Statute of Queene Mary punishable by the Kings Iustices, for maliciouslie or contemptuously molesting, letting, vexing, or troubling, or by any other vnlawful wayes or meanes disquieting, or misusing any Preacher, not in, but after his sermon, preaching or collation.

Third Quere.

Whether a Minister that ought or should say common prayer in any parish Church, bee punishable before the Kings Iustices, in maner and forme before expressed, if he shall not refuse to vse all, but shall vse some of the said common prayers, in
such

such order and forme, as they be mencioned, and set forth in the said booke? For it is not said in this clause; if he refuse to vse all, or any of the said prayers, but it is saide, if the Minister that ought to singe or say common prayer mencioned in the same booke, refuse to vse the said common prayers, &c. If then he observe the order and forme of the booke, by saying some of the prayers, in that order and forme as they bee mencioned in the booke, though hee say not all and singuler the prayers, it seemeth by the letter of the statute that he is not punishable, before the Kings Iustices: Indeed if the booke had appointed, but two prayers onely, as it hath appointed but two Sacraments only, and the Minister in this case should haue refused to say one prayer, and only have said the other prayer; in this case it seemeth to be without all controversie, that hee should have violated the law, because the letter of the law sayth, if he shall refuse to vse the said common prayers, which word prayers being of the plurall number, must conteyne two prayers at the least.

Fourth Quære.

Whether a Minister that ought or should vse the rites and ceremonies, mencioned in the said booke of common prayer, be punishable before the Kings Iustices, in maner & forme before expressed, if he shall not refuse to vse all but shall vse some of the said rites and ceremonies, in such order & forme as they be mencioned and set forth in the said booke? For it is not enacted, that the Minister shall vse all and every the said rites & ceremonies, or if he shall refuse to vse any of the saide rites and ceremonies, but it is said, or shall wilfully and obstinately standing in the same, vse any other rite, ceremonie, order, forme, or maner, &c. By which Letter of the Statute, it seemeth that the Minister is none otherwise punishable before the Kings Iustices, vnlesse wilfully and obstinately standing in the same, hee shall

shall vse some other rite, ceremonie, order, forme or maner of celebrating the Lords Supper, then is mencioned, &c.

And vpon this clause (as hath bene heretofore generally conceived) certaine inditements, exactly framed even by some Iustices of assises sitting vpon the bench, against certaine Ministers, for the not observation of the booke, before other of the Queenes Iustices haue ben traversed and avoyded, as being in this point erroneous, and not agreeable to the intendement of the statute. Yea and it hath bene the opinion of some great Lawyers, who have bene since Iudges, that it is almost impossible to frame an indightment against a Minister, for the breach of the first parte of the former clause of the statute, which is not traversable and avoydable.

Fift Quare.

If a Minister bound to say common prayer in any parish church, shall not refuse to vse, but indeed shall vse the said common prayers, in such order and forme as they bee mencioned in the said booke, whether he be punishable before the Kings Iustices, in maner and forme before expressed, if he refuse to say any part, chapter or section, of the said booke, which part, chapter or section conteyneth no prayer. For howsoever the whole booke be authorisid, yet the peyne seemeth in this case to have bene inflicted, only for the omission of prayer, and not for the omission of every part, chapter or section of the booke.

Besides these questions and their reasons there bee other reasons to induce vs, to be of opinion that a Minister before the Kings Iustices is not punishable in maner and forme, above expressed, for his refusing to vse all and every prayer, and prayers; rite, and rites; ceremonie, and ceremonies; section, and sections, in such order and forme as they bee mencioned and set forth in the said booke.

In the preface to the booke it is confessed, that nothing can almost so plainly be set forth, but that doubts may arise in the vse and practising of the same, and therefore for the appeasing of all such diversitie, and for the resolution of all doubts concerning the maner how to vnderstand,

derstand, doe, and execute the things conteyned in the booke, it is provided that the parties that so doubt, or diversly take any thing, shall resort to the Bishop of the Diocesse, who by his discretion shall take order for the quieting and appeasing of the same, so that the same order be not contrarie to any thing, contained in the said booke. And in the two last clauses of the preface, it is said, that all Priestes and Deacons shalbe bound to say daylie the morning & evening prayer, either privately or openly, except they be lett by preaching, studying of Divinitie, or by some other vrgent cause.

And that the Curate that ministrereth in any parish Church or Chappell, being at home, and not otherwise reasonably lett, shall say the same in the parish Church or Chappell, where hee ministrereth. From which places of the preface, (being part of the booke) it is plainly to be gathered, that the intent and meaning of the Parliament was not to have the Ministers to be punished before the Kings Iustices, in maner and forme before expressed, for refusing to vse all, and singuler the prayers, rites, ceremonies and sections, in such order & forme as they be mencioned in the said booke, if either vpon the Ministers doubts rysing in the vse and practise of these things, the Bishop by his discretion did not take order for the quieting and appeasing of the same; or if the Minister by preaching the word, studying of Divinitie, or by some other vrgent or reasonable cause, were let so to doe.

And if no Minister, in any of the cases before mencioned, be punishable, by the Kings Iustices in maner and forme aboue expressed, then is it manifest by the provisos following, that the Archbishops and Bishops have no power and authoritie, by vertue of this act, to inquire and punish the default of any minister, in these cases, by admonition, excommunication, sequestration, or deprivation.

And this not onely by the letter of the last proviso, ordeyned for corroboration of the Archbishops, Bishoppes, and other Ordinaries power and authoritie, but also by the proviso next and immediatly following that **Provisoe**, is a matter most cleere and vndeniable.

Provided alwayes, and be it enacted, &c. That all and singular Archbishops and Bishops, &c. shall have full power and authoritie, by vertue of this Act, aswell to inquire in their Visitation, Synodes, &c. to take accusations, and informations, of all and every the things above mentioned, done, committed or perpetrated, within the limites of their Jurisdictions, &c. And to punish the same by admonition, excommuni-

cation, sequestration, or deprivation, &c.

If then a Minister shall not doe, commit, or perpetrate any of the things above mencioned, and so not be punishable by the Kings Iustices, it followeth that the same minister is not punishable by the Ordinarie.

And this also by the next Provisoe is more playne, by which it is enacted: That *what soever person offending in the premises, shall for his offence first receyue punishment of the Ordinarie, shall not for the same offence estsoones be convicted before the Iustices; And likewise receyving for the said first offence punishment by the Iustices, he shall not for the same offence estsoones receyve punishment of the Ordinarie: No offence then punishable before the Iustices, no offence punishable by the Ordinarie.*

From all which premises it seemeth that the Queene, the Lords and Commons, never intended to impose such an exact and precise observation of the booke of common prayer vpon the Ministers, as that in no place, nor at any tyme, they should omit the reading, saying, or vsing of a chapter, a prayer, a section, a rite or ceremonie, vpon payne of imprisonment, &c. before the Queenes Iustices, or vpon payne of deprivation before the ordinary.

And therefore the intent of the Parliament, not beeing so much to binde the Minister to such an exact and precise observation, as to seclude all orders and formes of prayers, ministracion of Sacramentes, vse of rites and ceremonies, not mentioned and set forth in the saide booke, it seemeth very vnreasonable, and much derogatorie to the authoritie of that Parliament, that Archbishops and Bishops, *who were all seclused from that Parliament,* should by their extentions, constructions, and interpretations (as it were) invert the playne meaning of the Parliament, and that, *ea qua sunt destinata in unum finem*, should by them bee converted to another end.

But now if the Archbishops and Bishops (at the abandoning of the Popes power out of the Realme) have (as we confesse they had) an ordinarie iurisdiction by the statutes of the Realme, reserved to their Archiepiscopall and Episcopall sees, shall therevpon thinke, that lawfully by their ordinary iurisdiction onely (without regard of any Authoritie graunted vnto them by the statute) they may proceed *ex offi-*

to, to punish these defaultes, then we pray their Lordships to resolve vs, by what law, besides this statute, they may so proceed.

First, this booke before 5. and 6. of Edward the sixth, was never alive, and being once dead by the statute of Queene Mary, was but restored to life by the Queenes statute of Reviver. Before this statute the was revived, these offences were no offences, for where no lawe was, there could be no offence.

Besides, we have some reason to conceive thus well of the Ordinaries, that they should be more prudent & discrete, then to iustifie their criminall processe *ex officio*, by a plenarie power, or a soveraigne pleasure. And to say, that *ex officio*, by vertue of the popish canon Law they may lawfully proceed to suspension, excommunication, or deprivation of any Minister of the Gospell, for the not observation of the booke of common prayer, we assure our selves, that so to say, were to say amisse, yea and more then ever they will be able to proove.

First, the whole forme & order of common service, administration of Sacramentes, yfe of rites and ceremonies, as they be mencioned and set forth in the booke of common prayer, by all the groundes & rules of that popish law, is adjudged to be erroneous, scismaticall and hereticall. And therefore the refusing to vse the same booke, or any parte thereof, is so farre from being punishable by the same law, as by the same law, it is a matter worthy of high prayse, and commendation for a Minister to refuse to vse it.

Againe, what a vaine part were it, for an ordinarie to plead the popish canon law, for the validitie of his proceeding *ex officio*, when as the whole body and every title, chapter and versicle of the same law, at the petition and submission of the Clergie hath long since bene for ever adnulled, made voide and of no value, by an act of Parliament? In regard whereof, and in regard also, that every ordinaries processe *ex officio*, may be aswell iustificable in respect of him selfe, as equall toward the Kings subiects, it much every way importeth him, that his proceedings *ex officio*, be tempered hereafter with better morter, and grounded vpon a surer foundation, then be the maximes & principles of that law. Namely it behooveth that they bee founded and established vpon the Kings, either ecclesiasticall or temporall lawes and statutes, of which sorte of the Kings lawes we may bouldly and honestly say, that the Popish and foraine canon law is none: which saying also of ours we briefly proove thus:

The Clergie of the Realme, aswell for their successors, as for themselves, having (like humble and obedient subiects to the King) promised in *verbo sacerdotij*, that they would, *never from thence forth, presume to attempt, alleage, claime or put in vre, or enact, promulge or execute any new canons, constitutions or ordinances, provincially or other, &c.* It was enacted by authoritie of Parliament, according to the said submission and petition of the Clergie, that neither they, nor any of them from thence forth should presume to attempt, alleage, claime or put in vre any constitutions or ordinances Provincially or Synodally, or any other canons. All canons then (by these wordes or any other canons) of what sort or degree soever, whether domesticall and homebreed or strangbreed and foraine canons, before that time made, were once vterly forbidden to be attempted, alleadged, claimed or put in vre, by which meanes they were once, concerning their practise and execution, with vs adnulled and made void, And therefore so many of them, as at that time were not, or since that time have not bene revived and reauthorized, ought not to be attempted, alleadged, claymed or put in vre at this day.

It remaineth then to be discussed, what canons, constitutions, ordinances Provincially or Synodally, or what other canons, were at that time, or have at any time since bene recommended, & reestablished; vnto which point from the whole scope & plaine letter of the statute, we answered, that only such canons, constitutions and ordinances provincially or Synodally, may be attempted, alleadged, claimed and put in vre, as were made before that time, by the Clergie within the Realm, & were not contrariant nor repugnant to the lawes, statutes and customes of the Realme, nor to the damage or hurt of the Kings prerogative Royall. And that therefore all canons, decrees, decretall, sextes, elementines, extravagants and all other whatsoever constitutions and ordinances, Papall, being strangers and aliens from the common wealth of England, and not begotten by the Clergie within the Realme, are forbidden at this day to be attempted, alleadged, claimed or put in vre: The reasons of which our answer drawne from the letter of the statute, be these:

The Parliament having enacted, as before is mencioned, did nevertheless (according to another branch of the petition of the Clergie) not only give to the King & 32. persons, by him to be nominated, &c. power and authoritie to viewe, search and examine the said constitutions

ons and ordinances Provinciall and Synodally, before that time made by the Clergie of this Realme, but also enacted, that such of them, as the Kings highnes and the said 32. persons should deeme & adiudge worthy to be continued and kept, should be from thence forth kept, obeyed and executed within this Realme; All canons then made before that time, without the Realme, being seclused by the Parliament, from the view, search and examination of the King and 32. Persons, though he and they had deemed and adiudged the said canons to have bene continued, kept, and obeyed: yet notwithstanding the same Canons ought not to have bene kept, obeyed and executed. For only such canons, by the King and 32. Persons, ought to have ben deemed & adiudged worthie to be continued & kept; for the continuance and keeping wherof, power & authoritie by Parliament was given to the King and 32. Persons. But such canons, constitutions and ordinances, Provinciall or Sinodall only, and not Papall, were committed, &c. Therefore Papall being once disclaymed, and disauthorised by Parliament, and not againe committed by Parliament, to view, search and examination, were never by intendment of Parliament, to bee continued, kept and obeyed within this Realme. And this againe most pregrantly is confirmed vnto vs by the last provisoe of this act, the wordes whereof are these:

Provided also that such canons, constitutions, ordinances, and Synodalls Provinciall being already made, which be not contrariant or repugnant to the lawes, statutes and customes of the Realme, nor to the damage or hurt of the Kings prerogative Royall, shall now still be vsed and executed as they were before the making of this act, till such time as they be viewed, searched or otherwise ordered and determined by the said 32. persons, or the more part of them, according to the tenor and effect of this act:

Now by what other words, then by these of this provisoe, could the Parliament more fully and clearly have expressed their mind, that the same, by the tenor and effect of this provisoe intended for ever wholly to seclude all Papall and foraine canons, from being vsed and executed within this Realme? For at the petition and submission of the clergie, the Parliament having first enacted, that neither they, nor any of them from thencefoorth, should presume to attempt, alleadge, clayme, or put in vre any constitutions or ordinances Provincionall, or Synodalles, or any other Canons: And againe, at the petition and

submission of the Clergie, the same Parliament having committed to the view, search, examination and iudgement of the King, and 32 persons, such Canons, constitutions, and ordinances, or the said Canons, constitutions, and ordinances provincially and Synodall, which as theretofore had bene made by the Clergie of this Realme: And lastlie by this proviso, the same Parliament having enacted, that such Canons provincially, constitutions provincially, ordinances provincially, & Synodalls Provincially (for the word Provincially by the whole tenor and effect of this Act, can not in this place but have reference to everie of these wordes) shall still be vsed and executed, &c. till such tyme as they be viewed, searched, or otherwise ordered and determined by the said two & thirtie persons, &c. Seeing these things (I say) be thus, First submitted, then afterwards committed, and lastly provided, and not one word, sillable, or letter ayming at the continuance, vse, keeping, or obedience of the popish canon law, it can not bee averred by any, vnlesse he be too too conceited, & opiniative, that the Canon law or any part thereof, made by the Pope without the Realme, may lawfully at this day be attempted, alledged, claymed, or put in vre within the Realme, by any Iudge Ecclesiasticall what soever: yea and thus much also is confirmed by a statute, 37. H. 8. c. 17.

Sir Edward
Cooke, de
iure reg. ec-
cle, fol. 9.

How soever therefore the Kings of England, derying their Ecclesiasticall Lawes from others, bring proved, approved and allowed here by and with a generall consent, are rightly and aptly called the Kings Ecclesiasticall lawes of Englande in like maner as those lawes which the Normans borrowed from England, were called the lawes of Normandie, and as those lawes which the Romans fetching from Athens, being allowed and approved by that state, were called *Ius civile Romanorum*, how soever I say this be true, nevertheless herevpon it will not follow that those Ecclesiasticall Lawes thus borrowed and derived from others, may then any more rightly and aptly be called the Kings Ecclesiasticall lawes of Englande, when once by and with a generall consent in Parliament, they have bene disproved and disallowed; Yea and when also they have bene vterly adnulled, and commanded never to be put in execution within the Realme of England: From whence it seemeth to follow, that whatsoever subiect shall take vpon him, full and plenarie power to deliver iustice in any cause to any the Kings subiects, or to punish any crime and offence within the Kings Dominions by vertue of those lawes, once by so absolute & high an autho-

the disanulled, that the same person denyeth the Parliament, to have full power to allow and disallow lawes in all causes, to all the Kinges subiects, and consequently, that the high Court of Parliament, is not a compleat Court for the whole and intyre body of the Realme.

Wherefore, albeit we graunt (as the trueth of the Kings law is) vnto the Archbishops, Bishops, & other Ordinaries, that lawfully they may proceede to inquire in their visitations and Synodes, and els where, to take accusations and informations of all and every thing and things above mencioned, done, committed, and perpetrated within the limites of their iurisdictione and authoritie, and to punish the same by admonition, suspension, sequestration, or deprivation, though thus much had neuer bene provided by the statute: neuertheles we desire to be resolved, whether any minister ought to bee punished by these, or any other censures and processe, before the ordinarie, for any offence mentioned in this act, if for the same offence the same Minister, by vertue of this act, be not punishable before the Kings Iustices? And therefore for example sake, put this case, viz. That a Minister for the not crossing of a childe vpon the forehead (after baptisme is fully administered) be indighted before some of the kings Iustices, and afterward vpon a traverse before some other of the kings Iustices, the same Minister be found to have ministred the same sacrament of Baptisme, in such order and forme, as in the booke is prescribed. Notwithstanding the omission of this ceremonie, after baptisme, and that vpon such a traverse, the indightment, before the said second Iustices, be found to be vsufficient in law, and the Minister by the same Iustices be adiudged not to be in danger of the penaltie of imprisonment, &c. because his such not crossing is no offence against the law, we demand (we say) in this case, whether the same Minister, by the Bishops of the Diocesse, may be suspended, or deprived from his ministerie, or from his benefice for the same his not crossing, yea or no.

Confide-

11
Considerations against the deprivation of a Minister, for the not vse of a Surplice in diuine service.

IN the whole body of the statute, there is not one syllable or letter, from the which any semblance of reason can be deduced, that any Minister of the church, for refusing to vse, or for the not vsing of any ornament appointed by the statute, or by the booke to bee in vse, should be punished with the payne of deprivation. For what soever punishment a Minister, for the breach of the Statute, may sustayne, by the kings Iustices, the same is only to be imposed for such offences, as are specified before the last proviso of the statute. Ornamentes therefore of the church provided to be reteyned, and to be in vse, being not reteyned in those premises, or things mencioned before the second proviso, concerning the Archbishops and Bishops authoritie, and for refusing whereof, a Minister, by the premises is punishable, it followeth (there being no punishment for refusing the vse of ornamentes in the last proviso) that the not vse of ornamentes, is not punishable before the kings Iustices. And if there be no punishment appointed to be inflicted before the kings Iustices for the refusing to vse any ornament, the much lesse is there any punishment to be inflicted for the refusall of the vse of a Surplice. For the Surplice is so faire from being commanded to be worne, as an ornament, in every service of the church, as the same is not so much as once particularly mencioned, either in the parish booke, or in the statute.

Nay by the generall wordes, both of the statute and the booke, the Surplice is wholly secluded from being appointed to be an ornament of it selfe, in some part of the service of the Church. For if with the same in some part of the service there be not a Cope provided to bee worne, the Surplice may not be worne. For the better manifestation whereof, it is necessary that we set downe the wordes of the Statute, of the parish booke, and of the booke of the second of K. Edw. the sixth: vnto which booke of king Edward, for the vse of ornamentes, the Ministers be referred, both by the parish booke & statute of 1. Eliza. c. 2. the wordes of which statute are these:

Provided alwayes and be it enacted, That such ornamentes of the Church,

Church, and of the Ministers shall be retained and be in use as was in the church of England, by authoritie of Parliament, in the second yeare of the raigne of King Edward the 6. vntill other order shalbe therein taken by authoritie of the Queenes Maiestie, with the aduise of her Commissioners, appointed and authorised vnder the great seale of England, for causes Ecclesiasticall, or of the Metropolitane of this Realme.

Thus farre the statute: the wordes of the parish booke follow:

It is to be noted, that the Minister at the tyme of the Communion and other tymes in his ministracion shall vse such ornamentes in the Church, as were in vse by authoritie of Parliament, in the second yeare of King Edw. the sixth, according to the act of Parliament, in that case enacted and provided. The wordes of which booke of the second of King Edward, are these:

Vpon the day and at the tyme appointed, for the ministracion of the holy Communion, the Priest that shal execute the holy munisterie, shall put vpon him the vesture appointed for that ministracion, that is to say, A white Albe playne, with a vestiment or cope:

Afterward it is said thus: Vpon Wensdayes and Fridayes the English Letany shalbe said or song, &c. And though there be none to communicate with the Priest, yet those dayes (after the Letany ended) the Priest shall put vpon him a playne Albe, or Surplice, with a Cope, and say all things at the Altar, &c.

From all which places it is plaine, First, that no Minister, at any tyme vpon Wensdayes and Fridayes, after the Letany ended, was bound simple to weare a surplice at the Altare, for it was in his choyse, to put vpon him a playne Albe or Surplice, with a Cope.

Secondly, that no Priest vpon the day and at the tyme appointed for the Ministracion of the holy communion, might put vpon him a Surplice, but only a white Albe playne, with a vestiment or Cope.

Thirdly, that no Minister vpon Wensdayes and Fridayes, when hee read the Letany, did weare, or was bound to weare an Albe, or Surplice and Cope. For it had bene in vayne and a thing ridiculous for the booke to have willed the Minister, after the Letany ended, to put vpon him those ornamentes, if in the tyme of reading the Letany, hee had had them vpon his backe.

Fourthly, that no munister at or in any of the tymes & services aforesaid, is bound to put vpon him a Surplice, vntill he therewithall he weare a Cope. For the vse of ornamentes ought to be according to the act of

Parliament. And therefore where no Cope, there by the act no Surplices, where no Altar to goe vnto after the Letany ended, there no Surplice to be put on after the Letany where a Communion with a white Albe plaine, & a vestiment or Cope, there a communion without a Surplice.

There is yet one other spectall obseruation before touched, though for an other purpose, worthy to be reiterated in this place against the vse of the Surplice at the communion, reading the Letany, and saying prayers at the Altar. And that is this: Namely for that as well the Statute 1. *Edw. 4.* as the parish booke hath revived and commanded the vse of those ornamentes, according to the Act of Parliament, 2. *Edw. 6.* which were repealed and forbidden by the booke of the 5. and 6. of *King Edward the sixth.*

The order
where morn-
ing & eve-
ning prayer,
&c. fol. 1.

It is to be noted, saith the booke of 5. and 6. of King Edw. 6. That the Minister, at the time of the communion, and all other times, in his ministracion shall vse neither Albe, vestiment nor Cope, but being an Archbishop or Bishop, he shall have and weare a Rochet, and being a Priest or Deacon, he shall have and weare a Surplice only.

And here it is to be noted (sayeth the parish booke) that the Minister at the time of the communion, and at all other tymes, in his ministracion, shall vse such ornamentes in the church as were in vse by Authoritie of Parliament in the 3. yeare of the reigne of *King Edw. the 6.* according to the Act of Parliament in that case made and provided, which were as the booke of *K. Edw.* saith, an Albe with a vestiment or Cope, at the communion, and an Albe or Surplice with a Cope, vpon Wensdayes and Fridayes, after the Letany ended.

Obiection.

But by the Provinciall constitutions, ratified and confirmed by Act of Parliament, the parishioners are enioyned, at their costes and charges, to provide a Surplice, and in wayne were this charge layde vpon them, if so be the Minister were not bound by the law to weare it.

Answer.

It is true, and can not be denied, that all parishioners are enioyned, and that every Masse-priest is bound by the Provincials, the one sure, to provide, the other to weare a Surplice, for and at the celebration of the Masse, and for and in the vse of other poppish seruyces. The reason of the vse of which Surplice, by the poppish Glosses and Provincials, is yielded to be this: That the Priest must be clothed with white, to signifye his innocencie and puritie, and also *obseruentiam & Saluatoris nostri & totius celestis curie, quam sacramento altaris conficiendo consecrato non est dubium interesse.*

Lind de ce-
lebra. Mitte
e. lintheami-
na.

But

But how doeth it follow, either from the provinciall, or reason of the provinciall, that a Minister of the Gospell is bound by the provinciall to weare a Surplice at the ministracion of the word and Sacraments of the Gospell, when the doctrine and service of the Gospell is contrarie and repugnant to the service and doctrine of the Masse?

And when by the statute the Provinciall is not to be vsed and executed, but as it was vsed and executed before the making of the statute, which was Anno 25. of King *Henry* the eight, at what time the service of the Masse; called the Sacrament of the Altar, was only in request: A Minister therfore of the Gospell, by the Provinciall is no more bound to weare a surplice, then by the Provincials & other lawes of the Realme, he is bound to say a Masse: For the Provinciall appointeth a surplice to bee worne at the Masse and other idolatrous services, all which services and which Masse (as being blasphemous to the sacrifice of our Saviour Christ once made vpon the crosse, & repugnant to the holy worship of God) is abrogated by the lawes of the Realme.

Now then it were to bee wished that all states were given to vnderstand, by what equitie, law or good conscience grounded vpon the said statute, bookes or Provincials, sundry grave, learned and godly Pastors and other Ministers, for sundry yeates passed, have bene deprived, suspended or excommunicated from their benefices, dignities, promotions and ministeries, for not vsing the surplice?

If the Archbishops, Bishops and other ordinaries, have heretofore proceeded lawfully in this case, by any other right then statute lawe, it were greatly to be wished, & a thing tending every way to their honor, credite and reputation, that the same their iustice were made publickely knowne, to the end all maner persons and states, might rest themselves fully satisfied and well perswaded of the integritie of such their proceedings, as wherof they now stand in doubt.

For our partes we acknowledge, that the *Queenes* Highnes had authoritie by the statute with the aduise of her Commissioners, &c. or Metropolitane, to take other order for ornamentes. But wee never yet vnderstood, that any other order was taken accordingly: and especiallie in any such sorte, as that the Archbishops, Bishops & other Ordinaries might warrant their sentences of deprivation to be lawfull against the Ministers, which refuse to vse the Surplice. By the Advertisements wherevpon (as it seemeth) they did principally rely, and by authoritie whereof they did chiefly proceed, it is apparant that neither the letter,

nor intendment of the statute (for the alteration of ornamentes) was observed: And that therefore the commaundement of wearing a Surplice in steed of a white Albe playne, by the advertismentes, was not duly made.

For though by her Highnes letters it doth appeare, that she was delirious, as the preface to the advertisements importeth, to have advise from the Metropolitan & commissioners, that she might take order; nevertheless that her Highnes, by her authority, with their advise, did take order & alter the ornamentes: this (I say) doth no where appeare, no not by the advertisements them selves. Howsoever then the Metropolitan vpon the Queenes mandative letters, that some orders might be taken, had conference and communication, and at the last, by assent, and consent of the ecclesiasticall commissioners, did think such orders as were specified in the advertisements, meete and convenient to be vsed and followed: nevertheless, all this proveth not that these orders were taken by her Majesties Authoritie. For the Metropolitan and Commissioners, might thinke, agree and subscribe, that the advertisementes were meete and convenient, and yet might these advertisements be never of any vauel, as wherevnto her Highnes authoritie was never yeelded.

The Bishop by his ordinary iurisdiction hath no authority to deprive a minister for not wearing a Surplice,

But be it granted that the Surplice by the Advertisements, or other canons, hath bene duly authorized, yet herevpon it can not bee concluded, that an ordinary by his ordinarie Iurisdiction, hath power to deprive a Minister from his benefice for not vsing a Surplice. *vbi non fertur in contra facientes aliqua pœna, constitutio est imperfecta, & modicum prodesse poterit, quoad contra facientes*, there being the no peyne mencioned in the advertisementes to bee imposed vpon a Minister for the not vse of a Surplice, how should a Minister for the not vse of a Surplice, suffer the losse of his benefice, which is one of the greatest peynes?

ff. Si quis ius dicat non obte l. 1. & l. 2. si quis ius vocat.

Herevnto happily it will be answered, that *vbi certa pœna statuta est, non debet Iudex ab ea recedere, vbi vero non est statuta, tunc est impendenda ad arbitrium Iudicantis*. And further, that, *respectu pœna infligenda propter contemptum Iudicis, non reperitur provisio regulariter, a lege facta, & ideo Iudex potest arbitrio suo pœnam imponere*.

Touching which answeres it may brieflie be replied, that the peyne spoken of in the civill law, is generally vnderstoode of a pecuniarie peyne, to be assessed and applied to the filke; or more specially, it may be vnderstood, that among many corporall peynes, the Iudge arbitra-

tilly may choose which shall seeme to him most medicinable. Now, these kinde of peynes, it is manifest, that neither of them by the ordinarie Iurisdiction ecclesiasticall, in the church of England, can be imposed for contempt.

And as for that which to the same effect may bee alleadged, out of the forein canonistes or forein canon law, thus standeth the case: The whole plott & frame of the building of the canon law (as before hath bene proved) is cleane ruinated and wasted. From whence it followeth, that all the posts, sommers, walles, plates, rafters, and roose of that pallace, with all the yron, leaden and wooden implementes, and vten-filles thereof, be all likewise rotten and naught, else but drosse & canker. And so from the Nullitie thereof, it is to be inferred, that an ordinarie can not defend or practise his ordinarie Iurisdiction by that law, against any of the Kings subiectes. For all strange and forein law, is both a strange power, and a forein traytor to the Kings crowne, and for that cause, can not be pleaded in any of the kinges ecclesiasticall courtes, without being in danger of loosing her head.

Howsoever then this rule, in the romish consistories, by the Romish law, be true that an Ordinarie for inobedience or contempt, may impose an arbitrary payne, where a statute or constitution hath appointed no payne: yet because this rule is an irregular enemy to the regiment of the kings Crowne, it seemeth that the kings subiect is wronged whensoever an ecclesiasticall ordinarie, for contempt, shall impose arbitrarily, any payne, for the which payne he hath not expresse warrant from the kinges ecclesiasticall law.

Besides, if the Romish canon law, were the Kings ecclesiasticall law, yet doth not the former exception prove, that a Parson or Vicare, may be deprived from his benefice, by the ordinaries Iurisdiction, for the not vse of a surplice; only the said exceptio affordeth thus much: viz. that if an ordinarie iudicially and canonically (as they call it) according to the sanctions, not of the English, but of the Romish church, have admonished a Minister to weare a surplice, the exception (I say) affordeth in this case thus much, that his ordinarie for contempt may impose an arbitrary payne, if so be nether by common right, nor by constitutiue law, there be an ordinarie payne imposed. But now so it is, that this case falleth not out to be within the compasse of the payne of deprivation, for not wearing a surplice. For it is contempt only, and not the not wearing of a surplice, that arbitrarily may bee punished in this case:

Foraine canon law abolished, 25.
H 8. c. 19.

A Bishop by the forrain canon lawes, hath no Iurisdiction.

An ordinarie by the Kings ecclesiasticall law cannot impose an arbitrary payne for not wearing a Surplice.

Obiection.

Why then though an ordinary be not able by the Kings Ecclesiastical lawes, to drawe in a Ministers deprivation, principally and by the head, for not wearing a surplice, yet it seemeth that he may drawe in the same consequently, & as it were by the tayle; namely, by charging him with wilfull periury or obstinat contempt; for the which causes he may iustly be deprived.

Answer.

Nay, soft good Sir, your conclusion is without premisses. For who ever graunted that the Romish canon lawe was the Kings ecclesiasticall law? howsoever then, from part of mine answer made to the exception, of contempt, you might gather that by the Romish canon lawe, the deprivation of a Parson or Vicare, for contempt, may be drawne in by the tayle, though not by the head; nevertheless we stil denie that any Parsons or Vicares deprivation, directly or indirectly by the head, or by the tayle, either for contempt or periury, pretended to be committed for inobedience to canonicall admonition, can iustly be inflicted by the kings Ecclesiasticall lawes.

Frist wee affirme (as earst hath bene said) that aswell the branch as the budd, the tayle as the head of the Romish canon law is cleane cutt off from the body of the kings ecclesiasticall law.

Secondly, that the oath of canonicall obedience, exacted by the ordinary from the Parson or Vicare, hath ever bene exacted hether to, onely by vertue of the foraine canon lawe, and not so farre (as we can learne) by any the kings ecclesiasticall lawes.

And therefore periury against a Parson or Vicare, for refusing to weare a surplice at his ordinaries command (by the kings ecclesiasticall lawes) can not be obiected; For where there is no lawfull oath taken, there no lawfull punishment for the breach of the same oath can be inflicted, by meanes whereof, one halfe of the tayle before spoken of, is disiointed.

And as for the other halfe, viz. that for contempt of the ordinaries iurisdiction, a Parson or Vicar (having promised reverently to obey his Ordinary, and other chief Ministers vnto whom the government and charge is committed over him; Following with a glad minde and will their godly admonition, and submitting them selves to their godlie iudgements) that a Parson or Vicar, I say, may lawfully for contempt be deprived from his benefice, if he refuse to put vpon him a Surplice at his Ordinaries admonition, and vpon his Ordinaries iudgment, this might have some colour, if the Ordinaries admonition and iudgment by

by the holy scriptures, could be proved to be a godly admonition, and a godly iudgement: or if the former rule were a rule aswell drawne from the Kings ecclesiasticall law, as from the forain canon law; or if there were no certeyne peyne by the Kings ecclesiasticall law appointed for contempt: or that among diuers certeyne peynes, deprivation were one. But seeing the same rule is none of the Kings ecclesiasticall rules, and that admonition, suspension and excommunication, & not deprivation by the Kings ecclesiasticall lawes, be certeyne and ordinarie peynes, to be inflicted for contempt, it followeth by the Kings ecclesiasticall laws, that an Ordinarie may not arbitrarily, at his pleasure, for such contempt, inflict the peyne of deprivation.

Nay, were it true that the Romish and forain canon law, touching this point of punishment by deprivation for contempt, were in force within the Realme of England, yet we affirme, even by the same law, that a Parson or Vicare, for the not wearing of a Surplice, in divine worship, at his Ordinaries commaundement, is no more by his Ordinarie, to be deprived from his benefice, having a reasonable cause to refuse the wearing of a Surplice, then is a Bishop to be deprived by an Archbishop from his Bishopticke, for not putting in execution some of his provincially Decrees; when as the same Bishop hath any reasonable impediment, not to execute the same decree. For this Rule, *contemptus sit, ex eo ipso, quod dum possunt hoc facere, illud tamen exequi contradicunt*, is of no more efficacie against a Minister subiect to a Bishop, then it is against a Bishop subiect to an Archbishop. For as *Episcopus est ordinarius omnium Presbyterorum sua Dioceseos*, so is *Archiepiscopus, ordinarius omnium Episcoporum sua provincia*. And therefore as it may be said, *quod precipitur Rectori, seu Vicario, ab Episcopo imperatur ei, & quod imperatur necesse est fieri ab eo, & si non fiat, penam habet*, so likewise, *ubi preceptum Archiepiscopi est factum Episcopo, ibi necesse est ut obediat. unde verbum precipimus, habet vim sententia definitiva*, aswell by an Archbishop against a Bishop, as by a Bishop against a Parson or Vicare.

For as *hac dictio precipimus, vsed by a Bishop to a Parson or Vicare, importat aliquid de voluntate & auctoritate Episcopi faciendum, vel non faciendum*, so by the same word vsed by an Archbishop to a Bishop, *tenetur Episcopus cui precipitur, quod preceptum adimpleat, voluntate & auctoritate Archiepiscopi*. In like sort then, as a Bishop to save him selfe, both from contempt, & the penaltie of contempt, may alkeadge,

and

a Lind. de
constitut. ec.
quia incon-
tinentie.
verb. præci-
pimus.
b verb. præci-
pimus.

Certaine Considerations

and plead against an Archbishop, that he did not therefore obey and execute his Metropolitane commandement, by reason of absence out of his Diocese, sickness or other reasonable impediment; even so every Parson and Vicare to avoid contempt, may plead for his innocencie, against the admonition of a Bishop, that *Iustum habet excusationem, quare illud non debeat, vel non possit, vel nolit facere. Non enim potest dicitur sponte negligere, qui potestate faciendi, quod incumbit non habet. Et negligens dicitur, qui desidiosus, vel inconsideratus est, ad ea que agere debet, cum non subest rationabile impedimentum & contemnere dicitur, qui sine causa, non facit quod preceptum est. Et contemnere videtur. Idem esse quod aspernari, vel non curare, & hoc est verum quando non subest causa.* Wherevpon Linwood concluding, that proper inobedientiam possunt subditi eorum benefices privari, quia graviter peccant qui obedientiam infringunt hoc verum est, saith he, *sponte, & sine causa hoc fac.* Let vs then for examples sake only, suppose that the Bishop of Chichester, commanded by the Archbishops grace of Canterburie, to proceed to the deprivation of M. N. Vicare of P. in the Diocese of Chichester, for his not conformity in wearing a surplice, should notwithstanding his commandement, spare the said Vicare his deprivation, and being convented before his Metropolitan to answer this contempt, should for his excuse alledge that he had received letters of speciall grace, in behalf of the said Vicare from the Kings Maiestie, by which he was required to respite the said Vicare, and to assigne him a longer day. Suppose this (I say) for examples sake to be true, I demand in this case, whether the Kings letters directed to the Bishop, were not a reasonable impediment and iust cause, to save the Bishop from the penalty of contempt; (which by the canon lawe, is the losse of his Bishoprick) for the not execution of the Archbishops provinciall Mandate. If all the Advocates of the Archbishops consistories, must needs grant that his Highnes letters were a iust excuse to exempt the Bishop from the penalty of contempt, how much more iustly and reasonably may those Advocats conclude, that the same Vicare was to be excused from contempt, against the Bishops admonition, when for his defence he alledged, and was ready by his oath to have avowed the testimony of his owne conscience, rightly (as he was perswaded) grounded vpon the holy commandement of the most high God, that he durst not for feare of wounding his owne conscience, and displeasing God, to weare the surplice in any part of Divine worship? For if the request of an earthly

ex. de conc.
prob. c. quia
de c. ult. de
elect.
Lind de ca-
sli. quia verb
neglexerit.
Lind. de sen-
ten. excom.
verb. con-
temp.
glos in verb
contempse-
rit c. 1. de
appell. li. 6.

earthly king superior to an Archb. be a reasonable excuse, to save a BB. from contempt against an Archb. How much more ought the authoritie and precept of an heavenly king, be a iust and reasonable impediment, to save a minister, from contempt against a Bishops admonitiō?

Vnlesse then a Bishop will avow and be able out of holy writ, to iustifie that a Ministers conscience (especially a Ministers conscience, who walketh (as *Zakarias* did) in all the commandements and ordinances of the Lord without reproofe, can not be any iust or reasonable excuse or impediment, why he ought not, or may not, or will not in Divine worship weare a surplice, being therunto admonished by his ordinary, vnles (I say) the Bishop out of holy writ be able fully to prove that such a Ministers conscience is no iust or reasonable cause to stay him from wearing a surplice in Divine worship, in this case I say, that even by the Romish canon law it self, there can no contempt be charged vpon such a Minister, for not obeying his ordinaries, first, second & third admonitions; the reasons wherof, even out of the same canon law have bene alleadged before in the first parte of these cōsiderations.

Luke. 1.

But to leave the foraine canon law, and all the rules thereof, as being no branches of the Ecclesiasticall lawes of England, let it be granted that before the statute of 25. *H. 8. c. 19.* some canon or constitution Synodall or Provinciall, had bene made, or since have bene made, by the Clergie of the Realme, in their cōvocation assembled by the Kings writ, that a Parson or Vicare, for periurie or contempt ecclesiasticall, should bee deprived of his benefice; neverthelesse it seemeth that the same is a voide canon, and a void constitution: Because it is contrary or repugnant to the lawes and customes of the Realme: By which lawes and customes no free man of the Realme, can be dispossessed, of his franck tenement, for contempt or periury in any of the kings temporall Courts. All Parsons and Vicars then canonically instituted & inducted, being not subiects at this day to any forain power, but being freemen of the Realme, in as large and ample maner as any Layickes, the Kings other subiects be, it seemeth that a Parson & Vicare (by the lawes and customes of the Realme) being a Freehoulder, should for none other cause loose his Freehould, then for the which like cause, a Layicke may loose his.

¶ Yea and because no Layicke by the laws & customes of the Realme, may bee put from his Freehould for contempt, no though the same cōtempt be committed against the kings Proclamation, or any decree

H made

made in his high Courte of Chancerie: by so much the more vnreasonable it seemeth to be, that a Parson or Vicare for contempt against his ordinaries admonition, should bee deprived from his benefice, by how much a contempt against the Kings commaundement, is more heinous then is a contempt against the ordinaries admonition.

Answer.

You mistake the cases, & as it seemeth, you vnderstand not the law. The Freehold of a layick, and the Freehold of an ecclesiasticall person be not of one nature. The former belongeth vnto him by a title invested in his person, but the latter apperteyneth vnto a Church-man, in the right of his Church: If then the Churchman be displaced from his Church, it followeth by a necessary cōsequence, that he must likewise be discharged from his freehold. For he, being in the eye of the law dead vnto his Church, can no more enioy the freehold which he held in the right of his Church, then can a dead Layick any longer holde a Franktenement, in right of his person. And for your better satisfaction herein, I would have you to consider, that the like course of Iustice is kept and ministred against certeine officers in the common weale: which officers, so soone as for any iust cause they shall be put fro their offices, doe withall and forthwith loose such their freeholdes, as iointly with their offices, and in regard of their offices they held.

The Maister of the Rolles and Warden of the Fleete, having their offices graunted for terme of life, though ether of them by the same graunt be seised of a freehold, the one of the house called the Rolles, the other of the house called the Fleete: neuertheles if the first bee put from his Mastership, and the second from his Wardenship, neither can the one, nor the other, by the law and iustice of the Realme, reteyne either of those houses, as his Freehold; For as the houses were iointly with their offices, & in respect of their offices granted. So their offices being once taken from the, they must withal by necessary consequence forgo those their houses, w^{ch} for the time they held as their freeholds.

Reply.

Well: if this be all that may gaynesay our position, then be not our cases mistaken, neither yet have we so ignorantly vrged & applied the law and free customes of the Realme, as you would beare vs in hande. For though we grant, what soever you have excepted, to be true, yet can not the same be a barre against our pleading. For wee have hetherto pleaded no more in effect, but thus, viz. that a Parson or Vicar during his ministeriall function, being in the eye of the law, no dead but a liuing person, and a free man of the Realme, ought no more, for a contempt vnto his Ordinaries admonition, by any law of the Realme bee

dispossessed from the freehold; which in right of his function he enjoyeth, then can a Layicke for contempt vnto the Kings commandment, be disseised of his.

And what if the Freeholdes of a Layick, & of an ecclesiastical person, be (as you say they be) diversly possessed, the one by right of church, the other by right of person, what doeth this (I say) impugne our saying, that no Freeholder for contempt of the Kings commandment may be punished with losse of his freehold, whē the great Charter of England telleth vs, that a freemā shall not be amerced for a small fault, but after the quantity of the fault. And for a great fault, after the maner therof, saving to him his contentment or freehold. If then vnto every freemā punishable by the law, though his fault be great, his Contentment or Freehold ought to be reserved; it seemeth much more reasonable to follow, that no Churchman, being a freeman of the Realme, may for contempt be punished, with losse of his Contentment or Freehold.

And that you may consider (against our next conference) more deeply of this matter, let me put this case vnto you *viz.* That a Churchman and a temporall person, both freemen of the Realme; for one and the selfe same contempt against the king, were punishable by the great Lordes in the starre chamber, or in any other Court, by other of the Kings iustices; would our lawes & freecustomes of the Realme (think you) iustifie, that the spirituall person, enioyning still his spiritual function, might in this case be mulcted with the losse of his benefice, and yet the temporal person not to be punishable by the losse of his freehold?

The examples produced by you, relieve no whit at all your case, nay rather they stand on our side, and make good our part. For how long soever the Maister of the *Rolles* and Warden of the Fleete, doe enjoy their offices, for so long time, by your owne collection, they ought to enjoy their Freeholdes, annexed to their offices; yea and you assume in effect, that they may not lawfully for contempt, or any other cause, be disseised of their freeholds, so long as they be possessed of their offices.

Now then, if from the identity of reason you would conclude, that a Parson or Vicare for contempt lawfully deposed from his ministeriall function, should in like maner lawfully loose his freehold, annexed to his office, as the Maister of the *Rolles*, and Warden of the Fleete, put from their offices, should loose theirs, we would not much have gainesaid your assertion. For we hold it vnreasonable that a Parson or Vicar deposed from his ministeriall function, should enioy that freehold or

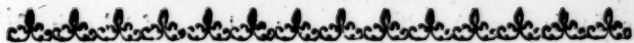
maintenance which is provided for him that must succeed in his ministerial charge. But then your assertion would make nothing against vs. For so you must prove that your officers for contempt only, may lawfully be put from their freeholds annexed to their offices, and yet notwithstanding remaine the same officers still.

And then indeed; frō some parity or semblance of reason, you might have inferred, that a Parson or Vicare for cōtempt deprived of his freehold, annexed to his function, might notwithstanding such cōtempt, enioy his ministeriall function still. But to dispute after this sort, were idly to dispute, & not to dispute *ad idem*. For how doth this follow?

The Kings officer, if for contempt he be displaced from his office can not withall but be displaced from his freehold, which ioynly with his office, and in regard of his office, he possessed.

Therefore a Parson or Vicare for contempt, may lawfully be deprived from his benefice or freehold annexed to his ministeriall function, and yet notwithstanding enioy his ministeriall function still. And this is the maine point & generall case (for the most part) of all the Ministers which at this day for contempt, stand deprived. For among all the sentences pronounced for contempt, there is scarce one to be found which deposeth a Parson or Vicare from his ministerial office, but onlie which depriverh him from his Church, Parsonadge, or Vicaradge. Whereby the vnreasonableness of certeine ordinaries, in their proceſſe of deprivation, become so much the more vnreasonable, by how much more vnreasonable it seemeth to be, that any publicke officer should lawfully be continued in his publicke office, and yet not be suffered to enioy any publicke meanes, to mainteine the same his office.

And thus much have we replied vnto your answer, made vnto our pleadings, that by the lawes and freecustomes of the Realme, a Parson or Vicar, being a freeman of the Realme, may not for cōtempt vnto his ordinaries admonitiō, be deprived from his freehold, if so be you grant that he may enioy his ministerial function still. As touching the lawes of the church, it hath ben already sufficiently demonstrated, that there is then no contempt at all committed against an admonition, whē the partie admonished can alleadge any iust or reasonable cause of his not yeelding to his admonisher. And if no contempt in such case be made, then no deprivation from a benefice, or deposition from the ministerie, in such case ought to follow.



Considerations against subscription, to the booke of the forme and maner of ma- king and consecrating Bishops, Priests and Deacons.

WHat the reason or cause should be, that subscription vnto this booke of consecration & ordination of Bishops, Priests and Deacons, hath bene of late yeares, so hotly and egerly pursued by the Lords of the Clergie, is a misterie, perhaps, not of many of the laytie well vnderstood. And howsoever vnder colour of the maintenance of obedience to the statute of the Realme, whereby this booke is confirmed, the same subscription may seeme to be pressed: neuertheles if the maine drift and reason of this pressure, were well boulded out, it is to be feared, that not only the vnlawfull supremacie of an Archbishop is sought to be advaced above the lawfull supremacie of our Soverayne Lord King *James*; but also that the Synodals, Canons and Constitutions made by the Clergie, in their convocation, are intended, if not, to be preferred above, yet at leastwise to be made equall to the common law and statutes of the Realme.

By the ancient lawes and customes of the Realme, one parcell of the Kings iurisdiction and imperiall Crowne, hath evermore consisted in graunting ecclesiasticall iurisdiction, vnto Archbishops, Bishops and other Prelats. For the maintenance of wich imperiall iurisdiction and power, against the vsurped supremacie of the Bishop of Rome, divers statutes, not introductorie of a new law, but declaratorie of the old, in the time of King *Henry* the eight, King *Edward* the sixth, and of our late most Noble Queene deceased, have bene made and enacted.

Yea and in a booke entituled *The Institution of a Christian man*, composed by *Thomas* Archbishop of *Canterburie*, *Edward* Archbishop of *Torke* & all the Bishops, divers Archdeacons & Prelates of the Realme, that then were, dedicated also by them to King *Henry* the eight, it is confessed and acknowledged that the nomination & presentation of the Bishopricks, apperteyned vnto the kings of this Realme. And that it was and shalbe lawfull to Kinges and Princes, and their Successors, with consent of their Parliaments, to revoke and call againe into their

Cooke de
lure. regis
eccle. fol. 8

fol. 53.

fol. 59.

owne handes, or otherwise to restraine all the power and iurisdiction which was given and assigned vnto Priests & Bishops, by the lycence, consent, sufferance and authoritie of the same Kings and Princes, and not by authoritie of God and his Gospell, whensoever they shall have grounds and causes so to doe, as shalbe necessarie, wholesome and expedient for the Realmes, the repressing of vice, & the increase of Christian faith and religion.

Ever since which time (vntill of late yeares, the late Archbishops of *Canterbury*, with the counsel of his colledge of Bishops, altered that his opinion, which some times in his answere made to the admonition to the Parliament, he held) it was generally and publickely maintained, that the state, power and iurisdiction of Provinciaall and Diocesan Bishops in England, stood not by any Divine right, but meerly and altogether by humane policie and ordinance alone. And that therefore, according to the first and best opinion and iudgment of the said Archbishops, Bishops, &c. the same their iurisdiction might be taken away and altered at the will and pleasure of the kings of England, whensoever they should have grounds and causes so to doe.

Mary since, when as the Discipline and government provinciaall, & diocesan ministred and exercised by the late Archbishop deceased, and his Suffraganes, was diversly handled, disputed and controverted, not to be agreeable, but repugnant to the holy Scriptures, & necessarie also for the repressing of vice, the increase of faith and Christian religion, to be changed; they hereupon iustly fearing, that the most vertuous & Christian Queene deceased, vpon sundry cōplaints made in open Parliament, against their many vniust greevances, would have reformed the same their maner of government; they then presently vpon new advise and consultation taken, boldly and constantly avouched the same their government, to have bene from the Apostles times, and agreeable to the holy scriptures; and therefore also perpetuall, and still to be vsed, & in no case to be altered, by any king, or Porentate whatsoever.

By meanes of which this their enclining to the popish opinion, and holding their iurisdiction to bee *de iure divino*, & professedly mainteyning in the Homilie (wherevnto also subscription is vrged) that the King, and all the Nobilitie, ought to be subiect to excommunication, there is now at length growne such a mayne position, of having a perpetuall Diocesan and Provinciaall government in the church, that rather

Do. Sutcliff.
Doct. Bilson

2. part of
the right vse
of y Church

ther then their Hierarchie should stoope, they would cause the Kings Supremacie, which he hath over their said Iurisdiction, to fall downe to the ground; In so much as by their supposition, the King hath no authoritie, no not by his supream power, to alter their sayd government at all. And to this end and purpose (as it seemeth) in their late canons have they devised and decreed, this booke of ordination, to be subscribed vnto. Which subscription can not but quite and cleane overthrow the Kings supremacie and auncient iurisdiction, in the most dangerous degree. For if their Provinciaall and Diocesan orders and degrees of Ministerie, together with their iurisdiction, be to bee vsed, (as established and derived vnto them by the holy scriptures) how then can it be in the power and iurisdiction of the King, to graunt, or not to graunt the vse of Provinciaall and Diocesan Bishopisme and iurisdiction? Or how may the provinciaall Bishops, with their Diocesan Suffraganes, be called the kings ecclesiasticall officers, if their iuridictions be not derived vnto them from the king? For if they be called Gods Bishops, or Bishops of Gods making, how then may they anie more be called the kings Bishops, or Bishops of the kings presenting, nominating and confirming?

Nay, besides, who then can alter them? who can restreine them? who can revoke or recall their power and iurisdiction? who can resist them? or what king of England may pluck his neck from vnder their yoke? Nay, how should the kings Supremacie (as by the ancient Lawes of the Realme it ought) remayne inviolable, when his Royall person, whole Nobilitie and Realme, is subiect and lyable to the censure of the canon Law, excommunication? Which law the Provinciaall and Diocesan Bishops to this day, in right and by vertue of their Provinciaall and Diocesan iurisdiction, and none otherwise, do stil vse, practise, and put in execution?

Besides, if Bishops Provinciaall and Diocesan (as they be described in that book) be commanded in the Scriptures, and were in vse ever since the Apostles times, then ought they to be in the Church of England, though the King and his law never allowed, nor approved of them. But to hold this opinion, as it will vphold the Popes supremacie (because the generall reasons which vphold a Provinciaall Bishop, will vphold a Pope) so will it once againe, not only impeach the Kings supremacie, but also be repugnant to the lawes and customes of the Realme. By which supremacie, lawes and customes only, the provinciaall & dio-

If Diocesan Bishops bee scripturally Bishops, the may they stand without y King. Diocesan Bishops hither to vphelde only by the lawes of the Realme.

cesan Bishops have bene hitherto vpheld. For seing the lawes and customes of the Realme, doe make the Kings nomination, presentation, and confirmation, the very essence and being of a Provinciaall, & Diocesan Bishop with vs, So that these offices ought to be held only, from the authoritie, gift and graunt of the King: how ought not the kings nomination, presentation, authoritie and gift, yea and the law it self, in this case wholly cease, if the order, degree, ministerie and iurisdiction of a provinciaall and diocesan Bishop be founded in holy Scripture? Vnlesse we shall affirme, that, that was in the Apostles times, which was not, or that, that is to be found in holy Scripture, which is not? Namely that there were in the Apostles times, and that there be in the holy Scriptures, no Bishops but provinciaall and diocesan Bishops to bee found? And that by the law of God and the Gospell, every King and Potentate, hath supreme power to suffer none but Provinciaall & Diocesan Bishops to be in the Churches.

So that by subscription to allow, that provinciaall and Diocesan Bishops, be Scripturally Bishops, and that their iurisdiction and power, is a Scripturally iurisdiction and power, is to deny that their iurisdiction and power, dependeth vpon the kings iurisdiction and power, or that by the kings gift and authoritie they be made Bishops.

But how doeth subscription (you will say) to the booke of ordination approve the orders and degrees of provinciaall & diocesan Bishops, to be by Divine right, rather then by humane ordinance? How? Why thus: It is eident (saith the preface of that booke) to all men diligently reading holy Scripture and ancient Authors, that from the Apostles times, there have bene these orders of Ministers in Christes Church, Bishops, Priests and Deacons. Yea and by the whole order of prayer, and of Scripture read, & vsed in the forme of consecrating of an Archbishop or Bishop, it is apparant that the order of an Archbishop or Bishop, consecrated by that booke, is reputed & taken to be of Divine institution. And therefore seing the names of those orders of Ministers, must necessarily be taken and vnderstood of such orders of Ministers, as be sett forth and described in the body of that booke, it must needs be intended, that the Ministers by their subscription, should approve the orders of Ministers, mencioned in that booke, to be of Divine institution, and consequently, that provinciaall and diocesan Ministers or Bishops, have not their essence and being from the nomination, gift & authoritie of the King.

Besides

Besides, if we should vnderstand by the word (Bishop) him that hath the Ministrie of the word and Sacraments, as the Pastor & teacher; and by the word (Priest) the Presbiter, that is the Governing elder; and by the word (Deacon) the provider for the poore, then for the Ministers to subscribe to the booke of ordination, would no way iustifie those officers or degrees of Ministers, which are described in that booke, but would indeed viterly subvert and overthrow them. Because the orders and degrees of a provincial & diocesan Bishop, of a Priest and Deacon mentioned in that booke, be of a farr differing nature from those orders and degrees of Ministers, which are mencioned in the Scriptures: because they only agree in name, and not in nature.

Wherefore seeing there be other orders and degrees of Bishops then Provincial & Diocesan Bishops found in the holy Scriptures, & seeing also Kings and Princes being *Vicarij Dei*, be commanded to authorise all things for the truth, and nothing against the truth: it seemeth necessarie that his Maiestie should not only restrayne the Provinciall and Diocesan Bishops, from vrging subscription to this booke of ordination, (being so derogatory (in their sence and construction) to his supremacie as nothing can be more,) but also to keepe the Bishops themselves within the tether and compasse of the word of God. For if the word of God, doe approve amongst the Ministers of the Word and Sacraments, a primacie of order only, & denyeth vnto them any primacie of iurisdiction and power in ecclesiasticall government, (as the learned Protestants have proved against the Papists touching *Peters* supremacie) then will it follow that ours also ought to bee reduced to the same compasse, both for the Kings Maiesties safetie, and the Churches good. Least Princes giving them more then God alloweth them, they shoud them selves loose that right and authoritie, which they ought to reteyne in their owne Royall persons.

Now that it may not be objected that we begge the question of Scripturely Bishops, not having any primacie of iurisdiction & power in ecclesiasticall government, (to let passe all particuler reasons of the Protestants against the Papists in this point) it shall suffice in this place to produce for witnesses six & forty iurors, against who no chalendge or exception can be taken; Namely the said *Thomas Crammer*, Archbishop of *Canterburie*: *Edward* Archbishop of *Yorke*: *John* Bishop of *London*: *Cuthbert Dauselmen*: *Steuens Wentan*: *Roberts Carioten*: *John Exon*: *John Lincoln*: *Rowland Coven*: & *Lischfield*: *Thomas Elien*: *Ni-*

eholas Sarum: John Banger: Edward Herefordien. Hugh Wigornien. John Roffen. Richard Cioestren. William Norwicen. William Meneven: Robert Affauen. Robert Landauen. Richard Wolman, Archdeacon of Sudbur. William Knight: Archdeacon of Richmond: John Bell, Archdeacon of Glosters: Edmund Boner, Archdeacon of Lecester: William Skipp, Archdeacon of Dorset: Nicholas Heeth, Archdeacon of Stafford: Cuthbert Marshall, Archdeacon of Nottingham: and Richard Curren, Archdeacon of Oxford: Together with William Cliff, Galfrid Downes, Robert Oking, Radulf Bradford, Richard Smith, Simon Mathew, John Fryn, William Lukemaster, William May, Nicholas Wotton, Richard Cox, John Edmunds, Thomas Robertson, John Baker, Thomas Bates, John Hase and John Tyson, Sacra Theologia, iuris ecclesiastici, & civilis Professores.

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All which Archbishops, Bishops, Archdeacons and Prelates, having with one voyce and accord shewed vnto King Henry the eight, that diuers good-Fathers, Bishops of Rome, did greatly reprove and abhorre (as a thing cleane contrary to the Gospell & the Decrees of the church) that any Bishop of Rome, or ellwhere, should presume, vsurpe, or take vpon him the tytle and name of the vniuersall Bishop, or of the head of all Priestes, or of the highest Priest, or any such like tytle; proceede farther, and in the end conclude, and give vp their verdict thus. For confirmation whereof, it is out of all doubt, that there is no mention made, neither in scripture, neither in the writings of any authentickall Doctor or Author, of the Church being within the tyme of the Apostles: That Christ did ever make, or institute any distinction or difference to be in the preeminence of power, order, or iurisdiction betwene the Apostles them selves, or betwene the Bishops them selves; but that they were all equall in power, order, authoritie and iurisdiction. And that there is now, and sith the tyme of the Apostles, any such diuersitie or difference among the Bishops, it was devised by the ancient Fathers, &c. For the said Fathers considering the great and infinite multitude of Christian men, and taking examples of the old Testament, thought it expedient to make an order of degrees, to be among Bishops and spiritual governours of the Church; and so ordeyned some to be Patriarkes, some to be Primates, some to be Metropolitanes, some to be Archbishops, some to be Bishops, &c. Which differences the said holy Fathers thought necessarie to enact and establish, by their Decrees and constitutions, not for that any such differences were prescribed and established

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in the Gospell, or mencioned in any Canonick writings of the Apostles, or testified by any ecclesiasticall Writer within the Apostles tyme. And thus farre their verdict.

But let vs graunt, that orders of Bishops, Priestes and Deacons bee conteyned in the holy scriptures, yet if those orders of Bishops, Priests and Deacons which are established in the booke, be not the same orders of Bishops, Priestes & Deacons, which are authorised by the scriptures: then (through the æquivocation of these wordes; *Orders of Bishops, Priestes and Deacons*) there being a *salacie*: how should this forme and maner of subscription be lawfull? *viz.* that the booke cōteyneth nothing contrarie to the word of God, & that it lawfully may be vsed? For only such orders of Bishops, Priestes and Deacons, ought to be acknowledged, subscribed vnto, & vsed, as by the holy scriptures are warranted. And therefore such as are conteyned in the booke, if so be they be diuers frō those which are approved in the holy scriptures, how should they without sinne be subscribed vnto, and vsed? Vnlesse we shall affirme, that Ministers of the Gospell of God, may rightfully approve of such orders of Ministers, as the Lord and Law giver of the Gospell never allowed ne approoved.

And thus much have we spoken touching not subscription, touching the not exact vse of the order and forme of the booke of common prayer, and touchinge the not precise practise and wearing of the rites, ceremonies and ornaments of the church.

Wherein if we have spoken otherwise then as for our speaking wee have warrant from the Kings lawes, our earnest desire is that it may be shewed vnto vs wherein we haue erred. For if there be any thing whereof we be ignorant, we shalbe willing to be taught the same, and having learned it, to yeald to the practise thereof.

In the meane time, seing not to weare a Surplice in the ministracion of Diuine service, not to make a crosse in Baptisme, & not to subscribe, &c. in it selfe, is not a sinne against any commandement of God, nor a thing scandalous vnto the people: And seeing also the Parsons who refuse to weare and vse the same, be in every respect men of good note, condition, fame, qualitie and behaviour, yea & such as against whom, no misdemeanor for doctrine or life, which might aggravate their offence, can iustly be objected, we may lawfully (as we thinke) conclude in their behalf, that *de aquitate & misericordia iuris*, they ought to be respected and tolerated, rather then for their refusal standing

vpon their consciences (whether erroneous or not erroneous, it kill-
leth not) *de rigore iuris*, (if there be any such rigour) to be suspended,
excommunicated or deprived, yea and in so generall and doubtfull a
case of conscience, vpon so slender a ground of perjury or contempt,
vpon persons every way so peaceable & well qualified, and wherein no
scandall hath ensued, we suppose it can not bee shewed among all the
decrees and sentences recorded, among all the Popish canonists, that
ever any Popish ordinaries, in any age have vsed the like iudiciall ri-
gour against any their Popish Priests.

It is to be noted, that the foraine canon Law, is none otherwise in
any part of this Treatise intended to be the Kings Ecclesiasticall law,
then only vpon a false supposition of the Archbishops and Bishops:
Because the same law is yet vsed & practised in their Consistories, not-
withstanding it hath bene long since abolished by Act of Parliament.

God saue King IAMES.

Paultes escaped in printing.

In the Epistle.

Fol. 3. pag. 1. lin. 12. say we, for (say we)

Fol. 4. pag. 1. l. a fine. 9. cfrom, for from.

Fol. 6. pag. 1. l. a fine 3. Winchester for Winchestr.

In the Booke.

Pag. 11. l. a fi. 11. appointed for appointeth.

Pag. 11. l. a fi. 6. appointed for appointeth.

Pag. 12. the 8. line is superfluous.

Pag. 19. l. 7. expcected for exprested.

Pag. 22. l. a fi. 10. ad in marg. 1. Mar for 1. c. 3.

Pag. 24. l. 14. fift for fifth.

Pag. 24. l. a fi. 11. decretall, for Decretalls.

Pag. 35. l. 11. provincalls, for Provincials.

Pag. 36. in fine, in marg. dicat for dicent.

Pag. 37. in marg. 25. is to be added to H. 8. & c.

Pag. 39. l. a fi. 10. preceptum for preceptum. ibid in mar. c. for c.

Pag. 40. in mar. casti for consti. & contemp. for contem.

Pag. 43. l. vlt. he for the.

Pag. 43. l. 17. a fi. enioying for enioyng.

Pag. 46. l. 8. Archbishops, for Archbishop.

Pag. 47. in f. in mar. Diocefan for Diocefan;

Pag. 48. l. 12. Diocefan, for Diocefan.